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VINDICIÆ JURIS REGII:

OR,

REMARQUES

UPON A

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Entituled,

AN ENQUIRY

INTO THE

MEASURES of SUBMISSION

TO THE

Supream Authority.

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BRITISH MUSEUM

ONE Reaſon why I did not Anſwer this Extraordinary *Enquiry* any ſooner, was becauſe the generality of the Nation, at the firſt publiſhing it, had their imaginations ſo much diſturbed with Lies and Impoſture; that till the ſtrength of the Charm was a little ſpent, there was no dealing with them: But now ſince they are come to themſelves, and the Eclipſe of their Underſtandings is pretty well over; I will venture to ſhew them the Falſe and Dangerous Reaſonings of this Paper if I can.

Our Author laies it down for *certain, That the Law of Nature has*

put no difference, or ſubordination among Men, except it be that of Children to Parents, or of Wives to their Husbands; ſo that with relation to the Law of Nature, all Men are born Free. What? Born free, and in ſubordination to their Parents too! that is ſomewhat hard: This Priviledge, according to his own Reaſoning, has been out of doors long ſince, and could never be claimed by any but thoſe who immediately deſcended from *Lucretius's Bladders.* If he means, that we are naturally ſubject to none but our Parents and Husbands; this, I believe, will not hold neither. For it ſeems pretty plain from Scripture, That the Younger Children are all born under the juriſdiction of their Elder Brother. I ſhall only mention Two Texts in proof of this Propoſition: The Firſt is, *Gen.* 4. 7. where God gives *Cain* a ſuperiority over his Younger Brother *Abel*, in the ſame Words in which he had before granted it to *Adam* over *Eve.* Now it is generally acknowledged, that *Adam* was her King, as well as her Husband. The Enquirer himſelf owns thus much, by ſaying, *That Matrimony naturally puts a Woman into a ſtate of Subjection.* Now this Authority which was given to *Cain*, ſeems to be a ſtanding Priviledge of Primogeniture, for the better Government of Families: For *Cain's* behaviour was not ſo meritorious as to deſerve an Extraordinary Favour; neither had *Abel* done any thing to forfeit his Natural Liberty. If it is objected, that this Priviledge of *Cain*, thus interpreted, deſtroys *Adam's* Patriarchal Authority, ſets up Two Concurrent Juriſdictions, and makes the Younger Children ſubject to Two Independent Princes, their Father and Elder Brother.

To this I Anſwer, That this Inconvenience will not follow, provided this reaſonable Suppoſition be but allowed, *viz.* That the Exerciſe of this Prerogative of Birth-right, was not to Commence immediately upon the Grant, but to lie Dormant till *Adam's* Deceaſe, as being no more than a Reverſion of Power.

The other Text is, *Gen.* 49. 3. where *Reuben*, according to the Hebrew way of ſpeaking, is called the Excellency of Dignity, and the Excellency of Power: That is, He was to have been by virtue of his Primogeniture, a Perſon of the greateſt Quality and Authority in the Family. For though God deprived him of this Honor upon the account of his Inceſt; yet the manner of his Father's Reproof does ſufficiently diſcover his Natural Right. And therefore the Learned *Grotius* obſerves upon this Place, and upon *Deut.* 21. 17. That Elder Brothers, as ſuch, had not only the Advantage of a double Portion of Inheritance, but were likewiſe Prieſts and Princes in their Families. Now if the Younger Children ought always to be governed either by their Father, their Elder Brother, or thoſe who claim under him; then certainly the State of Nature is not ſuch a State of Liberty, as the Enquirer ſuppoſes.

ſes. But this Patriarchal Notion, being not much material to the preſent Diſpute, I ſhall inſiſt no farther upon it.

His Second Section continues us in our *Original Liberty*, and therefore, I ſuppoſe, it's deſign'd to inform Independent Governors, of the Right the Law of Nature allows them to defend themſelves, and how far they may proceed for Reparation of Injuries. His Aſſertion is, That *the Duty of Self-preſervation exerts it ſelf in Inſtances of two ſorts; either in reſiſting Violent Aggreſſors, or in taking Juſt Revenges of thoſe who have Invaded us ſo ſecretly, that we could not prevent them; and ſo violently, that we could not reſiſt them: In which Caſes, Self-preſervation warrants us, both to recover what is our own, with Juſt Damages, and alſo to put ſuch Unjuſt Perſons out of a Capacity of doing the like Injuries any more, either to our ſelves or others.* But here we may obſerve,

Firſt, That the Caſe is very Generally, and conſequently Obſcurely Stated: For we are not at all enlightned about the Meaſures of thoſe *Juſt Revenges and Damages:* But this Point is Prudently left to the Ignorance, Ambition, and Ill-nature of every Man, to interpret as he pleaſes. And leaſt we ſhould not revenge our ſelves deep enough, the Enquirer gives us this Encouragement, *That Self-preſervation warrants us to put ſuch Unjuſt Perſons out of a Capacity*, &c. That is, If we were in the State of Nature, we ought to Kill, Diſmember, or lay every Man in Chains, who has done us any injury, great or ſmall, (for our Author makes no Exceptions for Mercy) it being impoſſible to diſable him without proceeding to this Rigour; for as long as he has Life, Limbs, or Liberty, he may do the World a Miſchief with them, if he has a mind to it. But,

Secondly, I do not underſtand what Advantage the Enquirer can make of this Terrible Denuntiation againſt *Aggreſſors and Invaders*; I much queſtion whether he has Fortified his own Security by this way of Reaſoning. But poſſibly this Battery is raiſed againſt the French King, for the Service of the Empire: For he has ſeemed to wiſh, ſome years ſince, *That the Grand* Louis *might be reduced to an humbler Figure.* Indeed that Monarch (if he be not miſrepreſented) is conſiderably to blame for ſending an Army againſt the Empire, without giving notice of it firſt, or demanding Satisfaction in a Publick and Peaceable Way. Theſe Unproclaimed Expeditions have been always thought unjuſtifiable, and contrary to the Law of Nature and Nations. For thoſe who have a Juſt Tenderneſs for the Lives of Men; who have any Regard to Juſtice, or the *Repoſe of Chriſtendom*, will try all other Arguments before they Diſpute the Cauſe at the Swords Point. For, beſides the Roughneſs of ſuch a Method, if Princes ſhould make a practiſe of Invading each other without warning, Men would be almoſt obliged to

ſleep in Armour, and the World muſt be always kept up in a poſture of Defence, for fear of being ſurprized: Now this would be a very troubleſome and expenſive way of Living; and make all Neighbouring Kingdoms eſpecially, very diſtruſtful of, and diſaffected towards each other. I know His moſt Chriſtian Majeſty complains in his Memorial, That He has been ill uſed by the Court of *Vienna*; but then He might have pleaſed to have told the Emperor ſo, before the Siege of *Philipsburgh*. And the Action was ſtill more Unaccountable, if he went (as who knows but he might) upon the bare Preſumption of an Injury, and relyed upon the Intelligence of a few Sceptical, Obnoxious, and Diſcontented *Germans*, who lay under the Imperial Bann. And to mention nothing further, if this very Diſputable Right was only an Expectancy which would have admitted of *Slow Forms*, and kept cold well enough till had fallen; as any one might fairly conclude from the Numbers, and Inclinations of his Friends in the Empire; this was a further Aggravation of the Unreaſonableneſs of his War. I confeſs, if all theſe hard things are true of the *French* King, I don't wonder if the Enquirer has levelled a whole Paragraph againſt Him; and I wiſh the Emperor may recover *juſt Damages for ſo Secret and Violent an Invaſion.*

All this while we have been Kings and Emperors, but now we muſt Reign over our ſelves no longer, but deſcend into the Melancholy ſtate of Subjection. However, to do the Author right, he has put the Yoak on ſo favourably, that whenever we find it galls us we may throw it off again, and return to our former Independency. For he gives us to to underſtand, Sect. 3. That *the True and Original Notion of Civil Society and Government, is, that is a Com-promiſe made by ſuch a Body of Men, by which they reſign up the right of demanding Reparations either in the way of Juſtice againſt one another; or in the way of War againſt their Neighbours; to ſuch a ſingle Perſon; or to ſuch a Body of Men as they think fit to truſt with this.* Now not to Examine how our Author comes to know that the Original Notion of Society was the True one. It's pretty apparent his Notion of it is neither Original, nor True; not Original, becauſe it does not comprehend the moſt Antient beginning of Government, *viz.* Paternal Authority and Conqueſt; in which Caſes Men have not the liberty of Articling for Priviledges, but muſt ſubmit to their Parents, and Conquerors, whether they think fit to truſt them or not.

Secondly, His Notion is defective in Point of Truth; for he has only reſtrained his Men from Acting Arbitrarily upon one another, or from Fighting a Foreign State without Commiſſion; but as for their Governours, they may reſiſt them, for all his Diffinition, when they pleaſe; for having *reſigned nothing but their right of demanding Reparations*, either in the way of Juſtice or War, againſt their Fellow Subjects, or Neighbour-

bouring States; it follows that one Branch of their Natural Liberty is reſerved to them, to Fight their Prince with upon Occaſion. This Concluſion, if we had nothing elſe to infer it, follows evidently from his own Principle; for ſince Government is only a *Truſt* committed by the People to a *Single Perſon, &c.* and *all Truſts*, as he affirms in this Section, *by their Nature import, that thoſe to whom they are given, are accountable.* Nothing is more plain, then that they may diſcharge themſelves from Subjection whenever they ſhall think fit to ſay, *Their Governours have not kept Touch with them.*

He proceeds to tell us, That the *Executive Power*, when ſeparated from the *Legiſlative*, is a *plain Truſt*, and no more than a Subordinate *Authority*.

From hence we may obſerve, *Firſt*, That by this Authors Conceſſions, the People have not the Legiſlative Authority, for he owns part of it is in the King; from whence it follows, that the whole Body of the People is not the Supream Authority, nor conſequently can call their Prince to Account, without his own Conſent.

Secondly, That part of the Legiſlative Authority, which is lodged in the People, is not given them at large, to be exerted at their pleaſure, but depends upon Stated Rules and Limitations, and can only be exerciſed by their Repreſentatives in Parliament. Nay, it's ſo precarious a Privilege, that without the King's leave, they can never make uſe of it; for it's neither Lawful for them to Convene themſelves, nor yet to Sit any longer than the King pleaſes: For though there is an Act for a Triennial Parliament, yet if the King Omits the Calling of them within that time, there is no proviſion made to Aſſemble themſelves; which is an Evidence this Power was never conveyed to them by this Act: For if it had, the Methods of putting it in Execution would have been Adjuſted; And if the King ſhould refuſe to Iſſue out Writs, the Chancellor would have been Authorized to do it: Which Power upon the Suppoſitition of intermediate Failures, would have been handed down as low as the petty Conſtables, as it was propoſed by the Parliament Aſſembled in 40 to *Charles* the Firſt. Now if the People have no ſhare in making of Laws, but by Repreſentation in Parliament, and the Being of this Aſſembly depends upon the Prince's pleaſure, then either the King is the Supream Authority in the Intervals of Parliament (which may be as long as the Crown thinks fit) or elſe there is no ſuch thing as a Supream Authority in the Nation, and conſequently no Government. Further, when the Two Houſes are actually Convened, when they are Dictating Law and Juſtice to the Nation, and Cloathed with all the Advantages of Solemnity and Power, they are then no more than Subjects, they are lyable to the higheſt Penalties, if they are proved guilty of thoſe Crimes

which

which deſerve them, for Felony and Treaſon are expreſly excepted out of their Privileges.

But to confute the Author's Notion of Government more fully, and eſpecially to make his Application of it Unſerviceable, I ſhall endeavour to prove Two things againſt him.

Firſt, That a Truſt does not always imply the Perſon accountable to whom it's made.

Secondly, That the Kings of *England* hold their Crown by right of Conqueſt and Succeſſion; and conſequently are no Truſtees of the People.

1. A Truſt does not always imply the Perſon accountable to whom it's made, which I ſhall briefly make good theſe Three ways.

Firſt, From the common Notion of a Truſt.

Secondly, From the Enquirers Conceſſions.

Thirdly, From a conſiderable Inſtance in our own Government.

Firſt, From the common Notion of a Truſt: For what is more generally underſtood by truſting another, than that we lodge our concerns with him, and put them out of our own diſpoſal? When I truſt a Man with my Life or Fortune, all People agree, that I put it in his Power to deprive me of both. For to deliver any Property to another with a Power of Revocation, is to truſt him, as we ſay, no farther than we can throw him. He that can recover a Sum of Money he has depoſited when he pleaſes, to ſpeak properly, has it ſtill in his Cuſtody, and truſts his Friend no more than he does his own Coffers. And therefore if we conſult our thoughts, we ſhall find, that a Truſt naturally implies an entire reliance upon the Conduct and Integrity of another, which makes us reſign up our Liberty or Eſtate to his Management, imagining them ſafer in his Hands than in our own. In ſhort, a Truſt where there is no third Perſon to judg of the performance, as in theſe Pacts between Subjects and Soveraign there is not. In this caſe a Truſt includes a Tranſlation of Right, and in reſpect of the Irrevocableneſs of it, is of the Nature of a Gift; ſo that there ſeems to be only this difference between them, that a Gift ought to reſpect the Benefit of the Receiver, whereas a Truſt is generally made for the Advantage of him who conveys it.

Secondly, By our Author's own Conceſſions a Truſtee is ſometimes unaccountable, for he grants a Man may *Sell himſelf to be a Slave.* (*p.* 1.) And when he has once put himſelf into this condition, his Maſter has an Abſolute Soveraignty over him, and an indefeaſable right to his ſervice; ſo that notwithſtanding all the unreaſonable Uſage he may meet with, he can never come into his Freedom again without the conſent of his Lord. This I take to be an uncontеſted Truth, and if it was not, St. *Peter*'s Authority ought to over-rule the diſpute; Who charges thoſe who were in this ſtate of ſervitude, to be *ſubject to their* Maſters with

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all fear, not only to the good and gentle, but alſo to the froward, 1 *Ep.* 2. 18.

Thirdly, I ſhall prove the unaccountableneſs of a Truſt from a conſiderable Inſtance in our own Government. The Houſe of Commons *V. g.* are certainly Truſtees for the Towns and Counties who chooſe them; the People reſign up the diſpoſal of their Rights and Properties into their Hands, in hopes of a good management. But ſuppoſe they prevaricate in their Employment, and betray their Electors, does this Impower the People to lay their Repreſentatives by the heels when they come into the Country, or to puniſh them farther as their Wiſdoms ſhall think convenient? If ſo, then the laſt reſort of Juſtice muſt lie in the Sovereign Multitude, who have neither capacity to underſtand the reaſons of Government, nor temper and tenderneſs to manage it. 'Tis pitty the Mobile in *Henry* the *6th.* his Reign had not this diſcovery, when the Right of chooſing Members was limitted to Forty Shillings *per Annum* Free-hold; whereas before all Tenures, if not all Perſons, had the liberty to elect, without exception; but this Act in all likelihood barr'd no leſs then a Fifth of the Nation from this principal Poſt in the Government. And if *Columbus* had not given them a lift by finding out the *Weſt-Indies*, and abating the value of Money, their Grievance had continued to this day as heavy as ever. We ſee therefore that the Author's Notion of a *Truſt* will not hold Water, and if it would, it can do him no Service, for I ſhall prove in the Second place, that the Kings of *England* hold their Crown by Right of Conqueſt and Succeſſion, and conſequently are no Truſtees of the People. I ſhall begin with the Point of Succeſſion, which becauſe it's generally received, I ſhall only mention an Act of Parliament or Two for the proof of it.

In the firſt of *Edward* the Fourth, (*Rot. Parl.*) where the Proceedings againſt *Richard* the Second are repealed; it's ſaid, *That* Henry *Earl of* Derby, *afterwards* Henry *the Fourth*; *Temerouſly againſt Right-Wiſeneſs and Juſtice, by Force and Arms, againſt his Faith and Ligeance, vered Werre at* Flint *in* Wales, *againſt King* Richard *the Second*, *Him took and Impriſoned in the* Tower *of* London, *in great Violence*; *and Uſurped and Intruded upon the Royal Power, Eſtate, and Dignity.* And a little after they add, *That the Commons being of this preſent Parliament, having ſufficient and evident knowledge of the ſaid Unright-wiſe Uſurpation and Intruſion, by the ſaid* Henry *late Earl of* Derby, *upon the ſaid Crown of* England; *knowing alſo certainly without doubt and ambiguity, the Right and Title of our ſaid Sovereign Lord thereunto true*; *and that by God's Law, Man's Law, and the Law of Nature, He and none other, is and ought to be their true, right-wiſe, and Natural Leige and Sovereign Lord*; *and that*

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He was in Right from the Death of the ſaid Noble and Famous Prince his Father, (Richard *Duke of* York) *very juſt King of the ſaid Realms of* England, *do take and repute, and will for ever take and repute the ſaid* Edward *the Fourth, their Soveraign and Leige Lord, and Him and his Heirs to be Kings of* England, *and none other, according to his ſaid Right and Title.*

In the firſt of *Richard* the Third, there is another Statute very full to this purpoſe, which begins, *The Three Eſtates, &c.* But I ſhall paſs over this, and proceed to the Act of *Recognition*, made upon King *James* the Firſt, his coming to the Crown: Wherein it's declared, *That He was Lineally, Rightfully and Lawfully, Deſcended of the Body of the Moſt Excellent Lady* Margaret, *Eldeſt Daughter of the Moſt Renowned King* Henry *the Seventh, and the High and Noble Princeſs, Queen* Elizabeth *his Wife, Eldeſt Daughter of King* Edward *the Fourth. The ſaid Lady* Margaret *being Eldeſt Siſter of King* Henry *the Eighth, Father of the High and Mighty Princeſs of Famous Memory,* Elizabeth, *late Queen of* England. In conſideration whereof, the Parliament doth acknowledge King *James* their only *Lawful and Rightful Leige Lord and Soveraign. And as being bound thereunto, both by the Laws of God and Man, They do recognize and acknowledge, that immediately upon the Diſſolution and Deceaſe of* Elizabeth, *late Queen of* England, *the Imperial Crown of the Realm of* England, *and all the Kingdoms, Dominions, and Rights belonging to the ſame; did by Inherent Birth-right, and Lawful and undoubted Succeſſion, Deſcend and come to his Moſt Excellent Majeſty, as being Lineally, Juſtly and Lawfully, next and* SOLE HEIR *of the* BLOOD *Royal of this Realm, as it is aforeſaid.* And thereunto they do moſt Humbly and Faithfully *ſubmit and oblige* themſelves, they *Heirs* and *Poſterities* for ever, until the laſt drop of their *Bloods* be ſpent.

So much concerning the Succeſſion, where by the way, we may obſerve the Depoſing Doctrine is directly pronounced unlawful, as appears from the firſt of *Edward* the Fourth, which Act continues ſtill unrepealed.

I ſhall proceed to prove the *Norman* Conqueſt, (for I need go no higher) which I ſhall make good from the beſt Hiſtorians, who lived either in, or near that time; from *Doomeſday* Book, and Acts of Parliament.

1. From Hiſtorians, *&c.*

Eadmer (*Hiſt. Nov. Fol.* 6.) a Monk of *Canterbury* at the time of the Conqueſt, and very intimate with Arch-biſhop *Lanfrank*, and with him when News came of the *Conqueror*'s Death; Writes, *That* William *deſigning to Eſtabliſh thoſe Laws and Uſages in* England, *which his Anceſtors and Himſelf obſerved in* Normandy; *made ſuch Perſons Biſhops, Abbots, and other Principal Men, who could not be thought ſo unworthy,*

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as to be guilty of any incompliance with his new Model, knowing by whom, and to what Station they were raiſed. All Religious and Secular Affairs He managed at his pleaſure. And after the Hiſtorian had related in what Points he diſallowed the Authority of the *Pope*, and *Archbiſhop*, he concludes thus. *But what he did in Secular Matters I forbear to Write, becauſe it's not to my purpoſe, and likewiſe becauſe any one may gueſs by what has been delivered already, at what rate He ordered the State.*

The next Teſtimony ſhall be fetched out of *Ingulph Abbot* of *Croyland*, an Engliſh Man born, Secretary to *William* when Duke of *Normandy*, and made Abbot by him. This Author informs us, *That by hard Uſage He made the* Engliſh *ſubmit, that He gave the Earldoms, Baronies, Biſhopricks, and Prelacies of the whole Nation to his* Normans; *and ſcarce permitted any* Engliſh *Man to enjoy any place of Honour, Dominion, or Power* Hiſt. Croyl. f. 512.

But *Gervace* of *Tilbury* (a conſiderable Officer in the *Exchequer* in the Time of *Henry* the Second, and who received his Information from *Henry* of *Blois*, Biſhop of *Wincheſter*, and Grand-child to the Conquerour) is more full to this purpoſe; which he thus delivers. *After the Conqueſt of the Kingdom, and the juſt Subverſion of Rebels, when the King himſelf, and his great Men, had viewed and ſurveyed their new acqueſts, there was a ſtrict Enquiry made who there were which had fought againſt the King, and ſecured themſelves by Flight. From theſe, and the Heirs of ſuch as were Slain in the Field, all hopes of Poſſeſſing either Lands or Rents were cut off; for they counted it a great Favour to have their Lives given them. But ſuch as were called and ſolicited to Fight againſt King* William, *and did not, if by an humble Submiſſion they could gain the Favour of their Lords and Maſters, they then had the Liberty of Poſſeſſing ſomewhat in their own Perſons, but without any right of leaving it to their Poſterity. Their Children enjoying it only at the Will of their Lords: To whom, when they became unacceptable, they were every where outed of their Eſtates; neither would any reſtore what they had taken away.*

And when the miſerable Natives. repreſented their Grievances publickly to the King, informing him how they were ſpoiled of their Fortunes, and that without Redreſs, they muſt be forced to paſs into other Countries. At length upon Conſultation it was Ordered, *That what they could obtain of their Lords by way of Deſert, or Lawful Bargain, they ſhould hold by unqueſtionable Right; but ſhould not Claim any thing from the Time the Nation was Conquered, under the Title of Succeſſion, or Deſcent. Upon what great Conſideration this was done is manifeſt,* ſays Gervace: *For they being obliged to compliance and obedience, to purchaſe their Lords Favour; therefore, whoever of the Conquered Nation Poſſeſſed Lands,* &c. *Obtained them not as if they were their Right by Succeſſion, or Inheritance; but as a Reward of their*

 Service,

Service, or by ſome Intervening Agreement. Gervaſe *of* Tilbury, *or the Black Book in the Exchequer,* Lib. 1. Cap. de Murdro. de neceſſar. obſerv.

The next Teſtimony I ſhall produce, is out of *Gulielmus Pictavienſis* (who lived about the time of *Ingulph,*) This Writer ſpeaking of King *William*'s Coronation, adds; *cujus Liberi atque nepotes,* &c. i. e. *whoſe Children and Poſterity ſhall Govern* England *by a juſt Succeſſion, which he Poſſeſſed by an Hereditary Bequeſt; Confirmed by the* Oaths *of the* Engliſh, *and by the Right of his Sword,* Gul. Pict. fol. 206.

Farther, *Ordericus Vitalis,* who lived in the Reign of *William* the Second, tells us, *How* William *the Firſt Circumvented the Two great Earls of* Mercia, *and that after* Edwin *was Slain, and* Morcar *Impriſoned, then King* William *began to ſhow himſelf, and gave his Aſſiſtants the beſt, and moſt conſiderable Counties in* England, *and made Rich Colonels, and Captains of very mean* Normans, Oder. Vital. fol. 251.

The ſame Author relates, *That after the* Norman *Arms overcame* England, *and King* William *had reduced it under the Government of his own Laws; he made* Fulcard, *a Monk of St.* Omers, *Abbot of* Thorney, Ibid. fol. 853.

Henry Arch-deacon of *Huntington,* who lived in the Reign of King *Stephen,* is full to the ſame purpoſe. *Anno Gratiæ* 1066. *perfecit Dominus Dominator,* &c. i. e. *In the Year,* &c. *the great Ruler of Kingdoms brought that to paſs, which he had long intended againſt the* Engliſh; *for he delivered them over to be deſtroyed by the Rough, and Politick Nation of the* Normans, fol. 210. *And in another place more particularly. When the* Normans *had Executed the juſt Decree of God upon the* Engliſh, *and there was not any Perſon of Quality of* Engliſh *Extraction remaining, but all were reduced to Servitude and Diſtreſs, inſomuch that it* was Scandalous to be called an *Engliſh Man,* William *the Author of this Judgment dyed in the Twenty firſt Year of his Reign,* Ibid. fol. 212.

Matthew Paris, Who wrote towards the end of the Reign of *Henry* the Third, agrees with the forementioned Teſtimonies, his Words are theſe, fol. 5. *Dux Normannorum Willielmus,* &c. i. e. *Duke* William *having fortified the Cities and Caſtles, and Garriſoned them with his own Men; Sailed into* Normandy *with* Engliſh *Hoſtages, and abundance of Treaſure, whom, when he had Impriſoned and Secured, he haſtened back into* England, *that he might liberally diſtribute the Lands of the* Engliſh *(who were forcibly diſſeized of their Eſtates) amongſt his* Norman *Soldiers, who had helped him at the Battle of* Haſtings *to ſubdue the Country; and that little that was left, he put under the Yoak of perpetual Servitude.*

And in another place he tells us, *That King* William *brought Biſhopricks and Abbys under Military Service, which before that time had been free from all Secular Servitude; but then every Biſhoprick and Abby was Enrolled according*

cording to his Pleaſure; and charged how many Knights or Horſe-men, they ſhould find for him and his Succeſſors, in times of War, fol. 7.

I might add many more Authorities of Antient Hiſtorians, but theſe I ſuppoſe are ſufficient. As for Modern Writers, I ſhall only cite Mr. *Cambden*, who thus delivers his Sence of this matter, *Britan. p.* 109. *Victor Gulielmus*, &c. i. e. *William the Conqueror, as it were to make his Victory the more remarkable, Abrogated the greateſt part of the* Engliſh *Laws, brought in the Cuſtoms of* Normandy, *and ordered the Pleadings to be in* French: *And outing the* Engliſh *of their Antient Inheritances, Aſſigned their Lands and Mannors to his Soldiers; Yet ſo as he reſerved the Paramount Lordſhip to himſelf, and his Succeſſors by Homage; That is, that they all ſhould hold their Eſtates by the Feudal Laws; and that none but the King ſhould be Independent Proprietors, but rather a ſort of limited Truſtees, and Occupants in Tenancy.*

From theſe Citations we have all imaginable Marks of an entire Conqueſt. The Laws, and Tenures, and in ſome meaſure the Language of the Country, were changed: The *Saxons* were Tranſplanted into *Normandy* and diſpoſſed of their Eſtates, as appears not only from the forementioned Hiſtorians, but from *Doomſe-day Book*, where we find, that almoſt all the great Proprietors were *Normans*. Now this Survey was made at the latter end of the Conqueror's Reign, many Years after his taking the Oath, which is by ſome ſo much inſiſted upon, as appears from *Ingulphus*.

If it's Objected that *William* the Firſt granted King *Edward's Laws*.

To this I Anſwer. 1. That moſt of King *Edward's* Laws were only Penal, and reſpected Criminals, as we may learn from *Ingulph*, Hiſt. Croyland *in fine*.

Secondly, Theſe Laws of King *Edward* were not granted by the Conqueror without his own Amendments, and Refinings upon them, as is evident from the Charter of *Henry* the Firſt, as it ſtands in *Matthew Paris*, fol. 55. *Lagam Regis* Edvardi, *vobis reddo cum eis Emendationibus quibus Pater eam Emendavit Conſilio Baronum ſuorum*, i. e. *I Grant you King* Edward's *Laws with thoſe Amendments which my Father made in them, by the advice of his Barons.* And that theſe laſt Words may not be thought to weaken the Teſtimony, it's not improper to obſerve, that theſe Alterations are ſaid to be made only by the *Adviſe*, not by the *Authority* of the Barons; and yet theſe Barons were *Normans* too, as is ſufficiently plain from what has been diſcourſed already. But,

To Conclude, the proofs of this Argument, ſeveral of our Parliaments acknowledge *William* the Firſt a Conqueror. The Acts (all of which it would be very tedious to name) run thus in the Preamble, *Edward V. g.*

by the Grace of God, the Fourth after the Conqueſt, &c. Now this is a plain Conceſſion, that the Rights of the Subjects were derived from the Crown; and in all likelihood was intended to hint as much. And therefore, unleſs the *Norman* Conqueſt had been evident and unqueſtionable, the Lords and Commons, who were always very Tender of their Liberties, would never have conſented, that the Statutes ſhould have been Penned in ſuch a Submiſſive Style.

If it be Objected, That the Conqueror took an Oath to obſerve the Laws of the Realm.

In Anſwer to this I obſerve. 1. That we have ſeen already in ſome meaſure what ſort of Laws theſe were, and how they were managed by him.

Secondly, Neither *Pictavienſis*, *Eadmerus*, *Ordericus*, *Vitalis*, *Henry* of *Huntington*, or *Matth. Paris*, Write of any Oath taken by the Conqueror. *Florence* of *Worceſter*, is the firſt that mentions it. *Flor. Wigorn.* fol. 635. The Words of the Oath are theſe, *Se velle Sanctas Dei Eccleſias, ac Rectores earum defendere, nec non & cunctum Populum ſibi ſubjectum juſta & Regali Providentia Regere, rectam Legem Statuere & tenere Rapinas Injuſtaque Judicia penitus interdicere*, i. e. *That he would protect Holy Church, and the Hierarchy; that he would Govern all his Subjects fairly, and take a Royal care of their welfare. That he would make Equitable Laws, and obſerve them, and wholy Prohibit Rapine, and Perverting of Juſtice.* From this I obſerve Two things.

Firſt, That the Legiſlative Power was all of it lodged in the Conqueror; Why elſe did he Swear to make *Equitable Laws?* For if the Conſtitution had been ſettled as it is at preſent, the Parliament could have hindred him from making any other.

Secondly, The Oath is Couched in very general Terms, and admits of a great Latitude of Expoſition, ſo that the Conqueror was in a manner left at his liberty, to interpret the Obligation, as he thought fit.

Thirdly, This Oath was voluntarily taken by the King ſome Years after he had forced the whole Nation to Swear Allegiance to him.

We are therefore, if it were only for this reaſon, to interpret the Oath to his advantage; And to ſuppoſe, that he would not Swear himſelf out of his Conqueſt, and Reign at the Diſcretion of thoſe he had ſo entirely Subdued; ſo that it ſhould be in their Power to Unking him, either upon a real or pretended Breach of his Oath.

Fourthly, We may obſerve, that the Kings of *England* are in full Poſſeſſion of the Crown, immediately upon the Death of their Predeceſſors, and therefore King *John*, *Edward* the Firſt, and *Henry* the Fifth, had Allegiance Sworn to them before their Coronation. From whence

whence it follows; that as Swearing does not make them Kings; so neither can Perjury, though truly Objected un-make them again, which will appear more evidently if we consider,

Fifthly, That Perjury in it self, does not imply a forfeiture of any Natural or Civil Right; Indeed, the dread of it ties up a Man's Conscience faster, and if he proves guilty, makes him lyable to a severer Vengance from God Almighty than simple unfaithfulness; upon which account an Oath is counted a considerable security for the performance of a promise. And therefore, for the greater satisfaction of their Subjects, Princes usually Swear to observe those Stated Measures of Justice, which were either fixed by themselves, or their Predecessors. And if they happen to fail in the performance; though they forfeit their Honor, and the Divine Protection; yet there accrues no Right from thence to the People, to re-enter upon their fancied *Original Liberty*. For the Duty of those under Authority, (except where it's expresly conditional) is not Cancelled and Discharged, by the mis-behaviour of their Superiors. For Example; supposing a Father Swears to remit some part of his Authority in the Family, and that he will Govern only by such a prescribed Rule; his forgeting his Oath afterwards, does not void or lessen his Power, nor excuse the Children in their Disobedience. And to make the Instance more direct, if possible. The Kings of *Persia* were Soveraign Monarchs, αὐτὸ κρατεῖς καὶ ἀνυπεύθυνοι, as *Plutarch* calls them, and were Worshiped as the Images of God, and could never be set aside, but by Death. Yet, these Princes took an Oath at their Inauguration; as *Grotius* observes from *Xenophon*, and *Diodorus Siculus*. Neither was it lawful for them to alter certain Laws, as appears from *Daniel* and *Josephus*.

The Kings of *Ægypt* likewise, as *Grotius* relates from *Diodorus Sic.* had a full, and unaccountable Authority, they did as he speaks *summo Imperio uti*; yet they were bound to the observance of a great many things, which if they neglected to perform, they could not be charged with these Failures while they were living; But after they were dead the Custom was to Arraign their Memories, and deny them the Honor of a Funeral Solemnity: Which punishment was likewise inflicted upon the *Jewish* Kings, who had been very irregular, and oppressive in their Government, 2 *Chron.* 24, 25, and 28. 27. From all which it appears, that a King's Swearing at his Coronation does not make his Crown forfeitable, or subject him to the Censure of the People.

And since the Breach of an Oath does not imply a forfeiture of Right; since the Kings of *England* claim their Authority by Conquest and Succession, from hence these Two Corollaries naturally follow.

First,

First, That *with us Power always proves it ſelf, unleſs it appears that it's given up or limitted, by any ſpecial Agreement.*

Secondly, That the Liberties of the Subjects are not founded upon the Reſervations of an *Original Contract*. For a Conquered People muſt not pretend to make their own Terms. And therefore, their Priviledges are not of their own Creating, but Acts of Royal Favour, and Condeſcentions of Soveraignty.

Indeed, when the People are not forced into Submiſſion, but freely Elect their Monarch; there all remote Inferences, and doubtful Caſes, ought to be Interpreted in favour of the Subject; becauſe the Form of the Government had its Beginning from them; and in this Caſe only it is, that *Liberty proves it ſelf*. But where the Limitations of a Monarchy, are the Condeſcentions of a Conqueror, or his Succeſſors, there we are not to ſtretch the Priviledge of the Subject, beyond expreſs Grant.

So that whatever Rights, or Branches of Government, are not plainly conveyed away, muſt be ſuppoſed to be ſtill lodged in the Crown. For ſince the Prince was once Veſted with Abſolute Power, and has afterwards bounded himſelf by his own Voluntary Act, The Abatements of his Authority are to be meaſured by his own evident Declarations, and not by any conjectural and conſequential Arguings. And here that Celebrated Maxim takes undoubted place, *That all Acts which are made in deſtruction of Common Law, or Antecedent Right, are to be Conſtrued ſtrictly, and not drawn out into Corollaries, and parallel Caſes.* From whence it follows, That if it was unlawful at firſt for the Subjects to reſiſt their Soveraign, it muſt ſtill continue ſo, unleſs they can prove he has relinquiſhed this part of his Prerogative, and given them an expreſs Liberty to take up Arms when they think it convenient; which, I believe, will be hard to find in our Conſtitution.

I Confeſs, there is a Reſiſtance Charter granted by King *John*, but ſuch a one as is no ways ſerviceable to our Author: For,

First, It's a plain Conceſſion from the Crown, and conſequently far from the nature of a Mutual and Original Contract.

Secondly, Here is no Depoſing Power given in caſe the Articles were broken: But on the contrary, upon the ſuppoſition of a Rupture there is an expreſs Proviſo for the ſecurity of the King's Perſon and Royalty; for a little after the Clauſe of *Salva Perſona noſtra*, we have theſe remarkable Words; *Et cum fuerit Emendatum Intendent nobis ſicut prius fecerunt*; That is, if the King ſhould fail in his Promiſe, and conſtrain them to make uſe of Force, *When their Grievances were redreſſed, and they* had put themſelves in Poſſeſſion of their Rights; *They ſhould then be obliged to obey him as formerly*, Matth. Par. p. 219.

Thirdly,

Thirdly, This Charter was extorted from the King in a Menacing and Military manner. The Barons were up in Arms, the City of *London* declared for them, and received them, and the King was deſerted by his own Army; whereas before this Grant, the Subjects had no colour of Authority to Levy Arms againſt the King. Now Rebellion is a very ill bottom to found our Liberties upon: The advantages which are gained by ſuch Monſtrous Violences as theſe, are no more to be inſiſted on than the Acquiſitions of Piracy; and therefore,

Fourthly, This Charter being obtain'd in ſuch an undutiful and illegal way, is without doubt one great reaſon among others, why it has been always counted a Nullity; for that it's no part of our Law, I ſhall fully evince.

Firſt, From the Tranſactions in the Reign of *Henry* the Third, for firſt in this King's Charter there is no notice taken of any Grant made by King *John*; whereas in the Confirmation of *Magna Charta* by *Edward* the Firſt, the granting it by *Henry* the Third is expreſly mentioned, and the Liberty recited at large: Which is a plain Evidence, that the one was not looked upon to have the ſame Authority with the other.

Secondly, That the *Magna Charta* of *Henry* the Third was a pure Act of Grace to the Subject, and no Confirmation of an Antecedent Right, appears from the Inſtrument it ſelf, where in the Preamble the King declares, That *out of Our meer and free Will We have given*, &c. And towards the end, *That for this Our Gift and Grant of theſe Liberties, Our Arch-biſhops, Earls*, &c. *have given us the fifteenth part of their Moveables.* Now beſides the wording of the Act, which runs as clear for a Voluntary Conceſſion as is poſſible; the very conſideration which was given the Crown, is a ſufficient Argument, that the Subjects had no Title to theſe Liberties before: For who can imagine they would have purchaſed that which was their own already, at ſo dear a rate.

Thirdly, This Charter of *Henry* the Third, though it contains much the ſame Liberties with the former, yet it has none of the ſame Ratification, there are no Proviſo's for Reſiſtance in it; but inſtead of Diſtraining and taking of Caſtles, *&c.* there was a Solemn Excommunication denounced by the Biſhops againſt all Violators of this Law. So that now the Subjects were evidently returned to their former State of Paſſive Obedience. And therefore thoſe Barons, who, towards the latter end of this King's Reign, took up Arms in defence of their Privileges, as *Matth. Paris* relates, were diſinherited by a Parliament at *Wincheſter*; which was ſoon after confirmed in another Parliament at *Weſtminſter*. (Sir *W. Raleigh* Priv. of Parl. Ap. 31.) More to the ſame purpoſe may be ſeen in the Law called, *Dictum de Kenilworth*:

For

For though this Order was made by no more than a Committee of Twelve Peers; yet they having an Abſolute Delegation as to this Point from the King and the Members of Parliament, what they agreed upon has the full Validity of a Law.

Fourthly, That King *John*'s Charter, which warrants Reſiſtance (though within a Rule) had never any Legal Authority, is evident from the Militia Act (14 *Car.* 2.) where the Parliament declares, *That the Militia was ever the undoubted Right of his Majeſty, and his Predeceſſors* But this was a great Miſtake, if King *John*'s Grant had been Law: For by vertue of that Charter, provided the King receded from his Articles, the Militia was lodged in the Barons, and the People were obliged by Oath to aſſiſt them againſt the Crown. Now, if the caſe had been doubtful, the Judgment of a Parliament ought to have put an end to the Controverſie. This Legiſlative Council has a Power to interpret, as well as to alter, or enlarge the Conſtitution; an Authority to tell us what has been, as well as what ſhall be Law. Such publick Determinations are as it were firſt and ſelf-evident Principles in our Government; they have a kind of Practical Infallibility in them, and ought not to be diſputed, except where they plainly contradict the Laws of God.

Fifthly, and Laſtly, If this Singular Charter had ever been part of our Conſtitution, as it's plain it never was, yet now it can have no manner of Force, becauſe the forementioned Statute concerning the Militia, not only declares it to have been, but likewiſe to make the Caſe more inconteſtable, Enacts it unlawful, to Levy War, *Offenſive or Defenſive, againſt the King*. But of this more hereafter.

If it's Objected, That unleſs we are allowed to Aſſert our Rights by Force when they are Invaded, the Laws which ſecure them to us are inſignificant; becauſe the King may break down theſe Fences when he pleaſes. To this I Anſwer, That theſe Laws upon this Suppoſition are far from being inſignificant; becauſe,

Firſt, They are the Boundaries of Right: They clearly diſtinguiſh the Property of the Subjects from the Prerogative, ſo that the Prince can ſeldom encroach upon them in any conſiderable Meaſure, without being Conſcious of the Injuſtice.

Secondly, By vertue of the Laws we are better aſſured of the Prince's Protection againſt the Injuries of all our Fellow Subjects; which is no ſmall Advantage.

Thirdly, We have the Prince's Honour, and Conſcience, and Intereſt, to ſecure us: I ſay his Intereſt; for notwithſtanding the Subjects were never ſo well convinced, that Reſiſtance is utterly unlawful; yet it is by no means adviſeable, for Princes to try their Patience too far:

far: For Religion has a very ſlender Influence upon the World now a days. Nothing is more frequent than to ſee Men live in thoſe Practices which they know to be Immoral. Now Oppreſſion is apt to make wiſe Men Mad. Nothing touches them ſo much to the quick, as the breaking in upon their Properties, and the undermining the Publick Securities. And therefore when the Government ſits thus uneaſy upon them, they will be apt to fly out into Diſorders, notwithſtanding all the Reſtraints of Law and Conſcience to the contrary. Now ſince Princes are ſuppoſed to be acquainted with the Frailty and Degeneracy of Mankind. This conſideration of danger will generally keep them within compaſs, and check their Arbitrary Deſigns, though the Principles of Honour and Integrity ſhould happen to prove inſignificant. This one would think a ſufficient Security; and more than this, is neither allowed by our Government, neither can it be by any other.

Firſt, We have no reaſon to believe our Government permits us to maintain our Rights by Arming againſt our Prince, not only becauſe our Laws plainly declare againſt all Reſiſtance, (as I ſhall ſhew afterwards) but becauſe the Libertys of the Subject were Acts of Grace from the Crown; and ſince they had no right to demand them by Force, they muſt take them upon ſuch Conditions as they are offer'd. Now things ſtanding thus, we have no imaginable reaſon to conclude our Kings had any intention to forego their irreſiſtable Authority, except they had ſigned it away in ſo many Words; we are not to ſuppoſe they would part with ſuch an ineſtimable Jewel, and be ſo Prodigal of their Favours, without the plaineſt Evidence. Indeed the granting this Liberty would be equally prejudicial to Prince and People, and render all Government Impracticable. For,

Secondly, The Ignorance and Partiality of the greateſt part of Mankind is ſuch, that to make it Lawful to reſiſt our Governors, whenever we think it neceſſary, is an infallible Expedient to keep a Nation almoſt always embroyl'd, and to baniſh Peace and Happineſs out of the World. Such an allowance as this, does in reality diſſolve all Government, and throw us back into a State of Nature. For when a Man may make uſe of all the Force he can get to redreſs his Grievances, to carve out his Satisfaction, and to poſſeſs himſelf of all thoſe Rights he fancies he has a Title to; his owning Authority is but a Complement; for he is certainly under no Government but his own. He is bound to do no injury 'tis true, but this does not hinder his being independent of Society. For his Obligation to Juſtice reſults from the Law of Nature, which binds

him to abstain from Fraud and Violence, whether it is enforced by any Municipal Constitution or not.

If it's Objected, That this liberty of Resistance is not to be allowed, but in Cases of extream Necessity, when the Government is in danger of being wounded in its Vitals, and the *Fundamental Laws* are struck at. To this I Answer, That since the People must be Judges of the Exegencies of State, this restraining of Resistance to Cases of Necessity, is no Security to the Common Welfare. For by this Principle whenever a Man, either through Mistake, or Design, believes or pretends to believe, that the *Fundamental Laws* are broken, he has a Warrant to take up Arms and form a Party to dispossess his Governor; and if he can discharge himself of his Allegiance when he pleases, he is actually free, because his Will is in his own Power.

Farther, Except the People are barred from Uniting their Forces against their Governors, there can be no determination of Civil Controversies. For in regard most People are apt to say, they are wronged as often as they lose a Tryal, if they have the liberty of Appealing from the Bench to the Neighbourhood, and may raise all their Friends and Dependents to oppose the Execution of the Judges Sentence; then Right must be resolved into Force, and Justice will be all Sword without any Ballance.

Now that the Doctrine of Resistance gives this dangerous Allowance is plain. For though our Author will not permit us the freedom of raising a Civil War, upon the account of *Male Administration in the Execution of the Laws*; yet he has not given us any assurance that other Men will be of his mind. For may they not object that the prospect of having Justice observed, was the principal reason of combining in Society. For all Laws how Fundamental soever, are designed only as means for the distinction, and security of Property, for the punishing of violence and circumvention, and therefore they ought not to be valued above the End. For if the Prince has an unlimitted Priviledge of corrupting Judges, suborning Witness, and forcing the Execution of unjust Sentences; all other Provisions for Liberty are to little purpose. If we are to submit to all this hardship, because it falls within the compass of *Male Administration*, What do our Fundamental Laws signify? When at this rate, may some Men say, We can neither have Life, Liberty, nor Estate secured to us: So that if Resistance was allowable in any Case, Oppression and Violence in the *Administration of Justice* would Warrant the use of such a Remedy. And if every one who imagined himself injured might beat up for Volunteers to redress his Grievances;

the

the Judges and Laws would be the only Criminals in a short time; and all Disputes would be decided by Blows and Blood.

Besides supposing Men were generally agreed, That nothing but the Breach of *Fundamental Laws* would justify Resistance; since the People are made the Judges of this Distinction, they need only be at the Expence of a hard Name for their enlargement; for it's but calling any disgust, or petty Injury a Breach of *Fundamentals*, and the Work is done.

If it be said, That the People are always quiet when they are well used; and never attempt to displace their Governours, but upon just Occasions. To this I Answer, That if the generality of Mankind were Masters of so much Sense and Honesty, as this comes to, Why did they not continue in that State of Nature some Men fancy them in at first? If they had been wise enough to have understood their true Interest, What need they have brought themselves under the Guidance, and Obligation of Laws? If they are so Vertuously enclined, Why did they submit their Wills and Powers to a Publick Regulation? Why should Men so well qualified for the use of their Freedom, be bound to their good Behaviour, and come under the restraints of Pacts and Subjection?

All Authority and Law is a great Reflection upon Mankind; it plainly supposes the generality of us are Weak, Deceitful and Turbulent Creatures. But if we are so full of Understanding and Conscience, as some Men would make us believe; all Governments ought to be broken up, and every Man have his Original Charter of Liberty return'd him. For if we are so fit to be Trusted, and to dispose of our own Actions; it's highly unreasonable to keep us in a State of Ignominy, and Bondage any longer: But English-Men of all others, have the least reason to make Panegyricks upon the Discretion, and Governableness of the People. For not to mention the Barons Wars, How many *Tylers* and *Cades*, and *Kets* and *Flammocks*, have we had within the compass of Four hundred Years? What formidable Bodies did those *Massianelos* bring into the Field; and how near was the State being overturn'd by the Rebellious Levity, and Madness of the Multitude? And after all these Instances of Confusion, we have certainly little reason to think that *Vox Populi* and *Vox Dei*, are the same; or that Right and Wrong depends upon Numbers.

From what has been said it's apparent, That there must be an irresistable Power in all Governments: But our Two Houses (whose Authority is neareſt to the Kings) have no share in this inviolable Priviledge. For least their Legislative Office should make

them forget their Duty to his Majesty, they are obliged to take the Oaths of Allegiance and Subjection to him, before they are capable of Transacting any business in Parliament, 7 *Jac.* 1. Cap. 6. Sect. 8. 30 *Car.* 2. Cap. 1.

From whence it follows; That with us the King, and only he, is the irresistable Power. Neither must this Prerogative be restrained to his Person; but extend to his Authority. For a King cannot be every where himself, neither is he able to punish Offenders by his own single Strength: He must govern by his Ministers, and sometimes by his Armies. Therefore if those who are employed by him, may be opposed, and hindered in the Execution of their Charge, he is as much disabled from pursuing the ends of Government, as if Violence had been offered to himself. Of this Consequence those who made the late *Act of Uniformity*, were well aware; and therefore in the Declaration, which they obliged a considerable part of the Kingdom to make, the Subscriber does not only declare, *That it's not Lawful to take up Arms against the King upon any pretence whatever*, but likewise, *That he abhors that Trayterous Position of taking Arms by his Authority against those Commissionated by him.*

Therefore that Objection which is usually made, does not come up to the Point, *viz.* That it's Lawful for a private Person to resist an Illegal Commissioner of the Kings, when he comes to dispossess him of his Property, or to outrage him in any other respect. For though a Man has the liberty of defending himself from Encroachments in a private way; yet if he calls in Hundreds and Thousands to his Assistance, without the King's Authority, he falls under the censure of the Law. Now the reason why the Constitution permits the use of Force in one Case, and not in the other, is because private Defence, though never so unjustifiably managed, cannot bring any publick Mischief along with it.

But if Men were allowed to arm Towns and Countries when they thought fit to complain; this would be of dangerous Consequence to the State, and make it lyable to perpetual Convulsions; so that we should always either feel or fear the Miseries of a Civil War.

But to proceed with our Author. In his Fourth Section we are told, *That no consideration of Religion binds us to pay more than we owe, nor to extend our Allegiance farther than the Law carrys it.*

Which though it's True, yet it's foreign to the Argument. For I shall make it appear farther afterwards, that the *Laws* extend our Submission, which is one part of our *Allegiance*, to all Cases whatsoever.

I suppose

I ſuppoſe this Advice was intended for a preſervative againſt over Dutyfulneſs, and that his Reader might not be miſled by the Church of *England's* Doctrine of *Paſſive Obedience*.

Now how proper ſoever ſuch Hints as theſe may be to ſome Flegmatick Climates and *Conſtitutions of Liberties*, I ſhall not diſpute; yet certainly the Enquirer could not have thought them over-ſeaſonable Directions for our Conduct; if he had pleaſed to conſider either the legal Advantages of the Crown, the temper of the Engliſh Nation, or the time of his own Writing: But his generous Zeal for the freedom of Mankind, makes him think he can never ſay, nor do enough.

His Fifth Paragraph ſuppoſes an *Original Contract*, and that the Meaſures of *Obedience are to be taken from thence, i. e.* Once upon a time, when every Man was weary of Governing himſelf any longer; they agreed by general conſent to ſet one of their own Countrymen over them, or ſome Stranger they had a fancy for, upon whom they beſtowed the *Equivocal Term of King, Sovereign, or Supream, i. e.* they gave him very glorious Titles without conveying the Power belonging to them, either to make the Royal Pageant ridiculous, or elſe to give him an occaſion to over-rate his Authority, which would be apt to make him ſtretch it into a *Forfeiture*, in a ſhort time: And poſſibly the People foreſeeing that they ſhould quickly be out of love with being governed, might over Title their Monarch, and make the Principles of the Conſtitution weak on purpoſe, that ſo their *Liberty* might lapſe to them the ſooner. But that neither *William* the Firſt, nor his lawful Succeſſors received their Crowns by way of Preſent, is evident to every one, who has ſeen any thing of our Hiſtories; ſo that this Notion of the Enquirers is perfectly Chimerical as to us.

For granting, as Mr. *Hunton* Obſerves, (Treatiſe of Monarchy, pag. 16.) *That Subjection is not immediately founded in Conqueſt, but in Conſent*; yet Conſent in ſuch a Caſe is forced, neceſſary and unavoidable, and includes an entire Submiſſion to the Conquerors pleaſure. Now when a King has his Enemies (for a Canquered People are no other at firſt) at ſuch an Advantage, he will ſcarcely be perſwaded to put any conditions of *Forfeiture* into his Title, and Reign by their Courteſy. For how frank ſoever he or his Succeſſors may be in other reſpects, it's unimaginable to ſuppoſe they will give them any Dethroning Power in their *Charter*.

And ſince the Caſe ſtands thus, we may fairly conclude, That that Magnificency of Style, with which our Kings are always mentioned, has a ſuitable Authority belonging to it; that thoſe Auguſt Names

Names of *Imperial Crown, Sovereign, Supream*, &c. which we meet with so often in our Courts of Justice, Conveyances, and Acts of Parliament, are no empty insignificant Sounds, nor even designed to describe a Precarious Prince, who may be Resisted or Deposed at pleasure.

In his Sixth Section he will allow no Prince to have a Divine Authority, unless he can prove his Delegation *by Prophets, &c.* And yet St. *Paul* calls the Roman Emperor the Minister of God; and I believe the Enquirer will grant that neither *Claudius*, or any of his Family were Proclaimed by *Bath. Coll.* or Crowned by an Angel from Heaven. I somewhat wonder that our Author should advance such Propositions as these; who grants (Sect. 10.) *That the Submission of the People together with a long Prescription makes a Prince a legal Governor, and when his Power is once settled by Law, he has a good a Right to it as any private Person can have to his Property.*

And immediately after he affirms, *That though a Man has acquired his Property by Humane means, such as Succession, &c. yet he has a Security for the Enjoyment of it from a Divine Right.*

Now if Prescription and Succession gives a Prince a good *Humane Title*, and this Title is confirmed by the *Rules of Natural* and Revealed *Religion*. One would think since he is thus secured in his Government by a Divine Right, he had a Divine Right to govern.

But after all I freely yield the Enquirer, *That we cannot reasonably conclude from bare Possession, that it is the Will of God such Persons should be our Governors*; for the most part we ought to conclude the contrary, because, as he well observes, this Argument from Possession *Justifies all Usurpers when they are Successful.*

By his Seventh Paragraph we are to take *Our Measures of Power, and by consequence of Obedience, from the express Laws of the State, from the Oaths which are sworn by the Subject*, &c.

To make this reasoning applicable to the Case in hand, I shall only observe at present, that by his own Concessions (Sect. 13.) *There are many express Laws made which lodge the Militia singly in the King, that make it plainly unlawful upon any pretence whatever, to take up Arms against his Majesty, or any Commissionated by him, and that these Laws have been put into the Form of an Oath, and sworn by all those who have born any Employment in Church or State.*

How well he reconciles the Doctrine of Resistance with these Remarques, will be seen afterwards.

The Eigth Section brings us from Natural Religion, to the Scriptures of the Old Testament, but it's only to shew *That they are not to be made use of in this matter.*

Now

Now under favour, I conceive, These Scriptures are not so foreign to the Point, as the Enquirer supposes. For though the Jewish Government was particularly designed for that People, yet being settled by Divine appointment, it ought to be highly esteem'd and imitated in its standing and general Maxims, by the rest of the World. God perfectly understands the Tempers, Weaknesses, and Passions of Mankind; which makes him infinitely more able to judge what sort of Polity best Answers the Ends of Society. So that whatever is not of a peculiar and temporary Nature in his Establishment, should be the Model of their Government.

And to apply this Observation; since there were no allowances of Resistance in the Jewish Government; But certain Death was the ordained Consequence of Disobedience to the Civil Power, *Deut.* 17. 12. We ought to conclude that such a general Submission is most rational, and advantageous for the publick Good, and therefore are to take it for granted, that all Christian States especially are settled upon this Passive Principle, where there are not express Proofs of the contrary. For it's no Honour to the Memory of our Forefathers, to infer by remote and strained Implications, that they thought themselves wiser than God Almighty.

To the former part of his Ninth Section I have nothing to object, but am ready to joyn Issue with him upon his Notion. As to what he mentions concerning *The State of the Primitive Christians*, I shall have occasion to touch upon it afterwards.

I shall pass over his Tenth Section, as being in a manner comprehended in his Ninth, and proceed to the Eleventh which brings us home to our *English* Government. Where as a Corollary from his former Discourse, he concludes, That the Question in debate *Must be determined by the fixt Laws and Regulations of the Kingdom.*

Which is some comfort; for then we ought not to be over-rul'd by any *General Considerations from Speculations* about Original Liberty, or Arbitrary Constructions of *Salus Populi*: Nor yet by the Authorities of Civilians, especially those Foreign ones, who have had a Republican Byas clap'd upon their Education. In this Paragraph he informs his Reader, That the *King's Prerogative is bounded*, and that it's Injustice to carry it beyond it's *Legal Extent*, which no one denies. As for his Instance, I cannot well imagine what he brought it for; I hope it was not to try, if he could make some People believe that his Majesty had Levy'd Money by his Army, for this he knows is not True. But when any of this Violence happens, he tells us the *Principle of Self-Preservation seems to take place, and to warrant as violent a Resistance.*

It seems to take place, i. e. he is not sure on't. But by his own Concessions he may be sure of the contrary; if the exercise of this, which he calls Self-Preservation, be restrained by the Constitution, whether it is, or not, besides what has been said already, will appear farther afterwards.

There is nothing more certain than that as he observes, Sect. 12. *The English have their Liberties and Properties* secured to them by the *Constitution*. But an allowance of fighting their Prince in Defence of these Liberties, *&c.* is so far from being *Reserved* to them, that it's plainly forbidden by *Many Positive and Express Laws*.

Indeed how is it possible such a Liberty should be *Reserved* in our Government, which as the Enquirer acknowledges, lodges the Militia (*i. e.* the Power of the Sword) singly in the King. So that without his Order, none of his Subjects can Form themselves into Troops, or carry the face of an Army, without being lyable to the highest Penalties. And whereas he urges, *That if we have a Right to our Property, we must likewise be supposed to have a Right to preserve it.* He means by Force. To this I Answer,

First, That a Man may have an unquestionable Right to some Things, which he has no Warrant to recover *Vi & Armis*, but must rest the Enjoyment of them, with the Conscience and Prudence of another. *E. G.* If the Father of a wealthy Person falls into deep Poverty, he has an undoubted Right to a Maintenance out of his Sons Estate, and yet he cannot fairly recover it by Force, without a Legal Provision for this purpose. To bring the Instance nearer home: The Right of making War and Peace, is an Indisputable Branch of the King's Prerogative; yet unless his Subjects assist him, this Authority can seldom be exerted to any Successful effect, because his Majesty cannot Levy Money (which is the Sinews of War) without the consent of Parliament.

Farther, every one who is injured in his Property, and endeavours the regaining of it by course of Law, has without doubt a Right to have Justice done him. But if the Court, where the Cause is depending, happens to be mistaken, or corrupted, I desire to know whether it's Lawful for him to raise his Arrier Ban upon such a Disappointment?

Our Author is obliged by his Principle to say no; and therefore he must either Answer,

1. That the Party aggreived ought to appeal to a higher Court; to which it may be replyed, That it's possible for him to meet with the same misfortune there; for our Constitution does not pretend to any Infallible, or Impecable Judges.

2. He

His Second Answer, must be that this is a Private Case, and therefore a Man is bound to submit to ill usage, rather than disturb the publick Peace. But to this I return, that we may suppose a general failure of Justice through Subornation, Bribery, *&c.* and then the Oppression will be of a publick and Extensive Nature; and yet if a grievance of this Magnitude should continue unredress'd after complains, our Author will not allow us the benefit of any rougher Methods; for he frankly tells us, *That it's not lawful to Resist the King upon any Pretence of ill Administration in the Execution of the Law.* Pag. 14. so that by his own Argument, we may have some very considerable Rights, which it's not justifiable to demand of the Government with a drawn Sword.

Secondly, This Liberty of Resistance dissolves all Government. For as I have already Observ'd, when every man is the Judge of his own Priviledges, *i. e.* when he is made the Authentick Interpreter of the Laws, and may use all the force he can get, at his discretion against the State; he is then most certainly to be govern'd by no body but himself. And therefore,

Thirdly, This Liberty must be the worst security for Peace and Property imaginable, as I shall shew more at large by and by.

As for his limiting Resistance, *To plain and visible Invasions.* This is a very feeble Remedy against Confusion. For since every one is made Judge of the Evidence, and the generality are naturally over credulous, and apt to believe ill of their Governours, when designing Men have once impos'd upon their understandings, and almost har'd them out of their senses, then every thing will be plain to them but their Duty. Thus it was plain that *Charles* the First intended to introduce Popery; though possibly never any Person since the Reformation gave better proof of his Adherence to the Church of *England* than that Prince.

Thus likewise at the beginning of this present Revolution, it was plain to the greatest part of the Nation, that his Majesty had made a League with the French King to Extirpate the Protestants and their Religion. Though now the World sees there never was a more Malicious, and unreasonable Calumny invented: But though Reports of this Nature are never so monstrous and nonsensical, yet at this rate we shall never want a Demonstration for a Rebellion; as long as such loose Principles, as the Enquirer advances, are allowed.

His Thirteenth Section contains nothing but Objections, which to do him Justice, are fairly put, considering the small compass they are drawn into. How well he gets clear of the Difficulties

he was ſenſible of, the Reader muſt judge; for now we are coming to his

Fourteenth and Dead doing Paragraph, in which he offers to take off all the Arguments, which are made for Non-reſiſtance. Now before I reply diſtinctly to his Anſwers, I ſhall endeavour to offer ſomething more than I have urged already in Confutation of his main Principle.

And here it's not amiſs to obſerve, That the Enquirer in his Ninth Section, *Makes the Meaſures of our Submiſſion much ſhorter*, than thoſe of the Ancient Chriſtians, becauſe *Our Religion is Eſtabliſhed by Law.* By vertue of which Diſtinction, he makes our *Faith* fall under *the conſideration of Property*, and from thence concludes by Implication, That we may reſiſt our Prince in defence of it.

But we are to conſider though our Religion has a legal Settlement, yet we have no Authority to maintain it by Force. Nay our Laws are expreſs as it's poſſible againſt all manner of Reſiſtance (as himſelf acknowledges.) Now the Law is certainly the Meaſure of all Civil Right, and therefore to carve out our ſelves a greater Security than the Law allows, is Deſtructive of all Government. If the Mobile get this hint, it's to be feared they will give him no occaſion in their Second Expedition, to admire them for Burning and Plundering with ſo much Temper and Moderation.

Further he grants, by Conſequence, That the Roman Emperours were irreſiſtable. For I don't find that he allows the Primitive Chriſtians a Liberty of Reſiſtance, though they were invaded in their Lives and Properties, as well as in their Religion.

Now if theſe Emperours were irreſiſtable, I deſire to know what made them ſo; if he Anſwers *the Laws*, I Reply, That the Engliſh Conſtitution is as full againſt taking Arms to oppoſe the King as is poſſible. If he Replies, That it was Unlawful to reſiſt the Roman Emperours, becauſe the making of Laws was wholy in their own Power; but where the Legative Authority is partly in the King, and partly in the People, the Caſe is otherwiſe. To this I Anſwer, That the Diviſion of the Legiſlative Power does not weaken the Obligation of a Law, when all the Diſtinct Authorities concur to the making of it. *E. G.* I Queſtion not but our Author will grant that the Engliſh Laws, though the People have a ſhare in Enacting them, are as perfect, and ought to be as inviolable as thoſe in *Turkey*, where all depends upon the Princes Will: Therefore, if the Authority of the Kingdom Declares their Prince Irreſiſtible, this makes him as much ſo, as if he had given himſelf this Power by Conqueſt, and had been the moſt Abſolute Monarch in the World.

And

And as this Privilledge is clear, ſo he may make it Immortal if he pleaſes, provided he has a Negative upon the Remainder of the Legiſlative Power (as the King has upon the Two Houſes) ſo that the Conſtitution cannot be alter'd without his own Conſent.

Nay if the People have given up their Rights of Reſiſtance by their own voluntary Motion, they are bound in Honour as well as Juſtice to maintain their own Act. So that it ſeems more unaccountable not to Acquieſce in this Caſe, than if they had been forc'd into ſuch a ſubmiſſion.

Though it's not improper to Obſerve, That the Act which I have now in view (*viz.* 13 *Car.* 2) which tells us, *It's unlawfull to Levy War Offenſive, or Defenſive againſt the King*. Does not ſo much pretend to veſt the King with any new Authority, as to acknowledg his Antecedent Right, where it's likewiſe Declar'd that *The Militia has ever been the undoubted Right of his Majeſty and his Predeceſſors*.

Which is as plain a Conceſſion as can be, that this Parliament did not believe our Government began upon *Hobs* his Pacts, or that the King had his Power Originally from the People. But ſuppoſing the Government was Founded in the Voluntary conſent of the People (the contrary of which has been proved;) yet after they have once by the moſt Solemn and Deliberate Act bound up their Hands, and made it Unlawful under the higheſt Penalties, to uſe Force againſt the Magiſtrate; in this Caſe it's unreaſonable to ſuppoſe they can reſume their Antient Liberty at pleaſure. For that which a Man has Alienated by his own free Grant, is as much out of his Power, as if he had never been poſſeſs'd of it at all. So that it's as great Injuſtice to wreſt back that, which I have once given away, as to invade my Neighbour in his Original Property.

If it's Objected, That ſuch Laws of Non-reſiſtance as this are to be underſtood with a *Tacit Exception*. *Viz.* Provided the Magiſtrate does not preſs too hard upon the Conſtitution, and Violate the moſt *Fundamental Parts* of it. To this I Anſwer,

Firſt, If a Law which is ſo abſolutely againſt all Reſiſtance, as appears both by the clear and comprehenſive ſtile it's Pen'd in, and by the time in which it was Enacted, which was immediately after we were emerged out of the Miſeries of a long Rebellion, ſo that we have all imaginable reaſon to believe the Wiſdom of the Nation deſign'd to make the moſt effectual Proviſion to ſecure us from the like Calamity. If I ſay a Law thus remarkquibly worded, and circumſtantiated, may be eluded by Diſtinctions, and Reſervations; then the Statute Book is little better than waſt Paper;

for at this rate there is nothing ſo plain, but may be gloſſed away into inſignificancy.

If he Objects, That the Natural Right we have to preſerve and protect our ſelves, will juſtify the Defence of our Lives and Liberties againſt all Invaders whaſoever, notwithſtanding any poſitive Municipal Prohibitions to the contrary.

To this I Anſwer, That to Object thus is to Argue againſt himſelf, as well as againſt Reaſon. For he grants by undenyable Conſequence, (Sect. 9.) That the Primitive Chriſtians were obliged to Non-reſiſtance, becauſe they *Lived under a Conſtitution in which Paganiſm was Eſtabliſhed by Law.* He ſhould have ſaid, In which Chriſtianity was prohibited, for it was poſſible for both Religions to have been Eſtabliſhed, as they were in the time of *Conſtantine*: Now if a Municipal Law ought to be over-ruled by the Law of Nature when they happen to claſh; then the Chriſtians who lived under the Heathen Emperors might Lawfully have taken up Arms againſt the Government, becauſe they were deprived of their Lives and Fortunes againſt all Equity and Humanity. For to perſecute Men ſo remarquibly Regular and Peaceable, both in their Principles and Practices, is as manifeſt a Violation of the Law of Nature as is poſſible. And if it was Lawful for them to reſiſt, then they ſeem bound in Conſcience to do it, whenever they had a probability of prevailing. For without doubt it's a great fault for a Man to throw away his Life, impoveriſh his Family, and encourage Tyranny, when he has a fair Remedy in his Hand. But our Author has not yet been ſo ſevere, as to bring in the Martyrs *Felo de ſe.* But,

Secondly, The Law of Nature obliges all Men to ſtand to their Contracts, though they have made them to their Diſadvantage. They muſt not, as the Scripture ſpeaks, change, though they *Have ſworn to their own hurt*, Pſal. 15.

Except the Matter of the Contract be *Malum in ſe.* But for Men to bar themſelves the uſe of ſome Liberties (though never ſo unqueſtionable) with reſpect to ſome particular Perſons, and to tye up their Hands in reference to their Governors, is no *Malum in ſe*, for in ſuch a caſe they diſpoſe of nothing, but what is their own, and that upon a valuable conſideration. Thus much is acknowledged by our Author (Sect. 1.) For he tells us, *That by the Law of Nature a Man may bind himſelf to be a Servant, or ſell himſelf to be a Slave, by which he becomes in the Power of another, ſo far as it was provided by the Contract.* So that where the Contract is clear, it ought to be punctually obſerved. From whence it follows, That when

when a Nation shall Deliberately, and Authoritatively declare, either that it always was Unlawful for them to take up Arms against their King; or at least that it should be so for the future. After they have thus Solemnly disclaim'd all manner of Right, or pretence to Resistance, to defend themselves by Force, is a notorious Infraction of their Promise, and as much a breach of the Moral Law, as of the Statute Book.

Thirdly, Because the Authority of the Constitution must be weakned, and the Ends of Government lost, by allowing the Subject a Latitude of Exposition, therefore the Wisdom of the Nation has thought fit to stick by the Letter, when it's plain and unquestionable, though it is apparently against the intention of the Law.

Of this Practice I shall give a considerable Instance.

In the Reign of *Henry* the Sixth there was an Act made (which I have already cited to another purpose) in which all Persons not possessed of Forty Shillings *per Annum* Free-hold, are declared uncapable of Electing Knights for the County. The Design of which Act was to strike the Mobile out of the Government, and that none but Persons of presum'd Discretion might have a share in choosing their Representatives.

But the value of Money being so prodigiously altered since that time, Fifteen Shillings now, probably being not more than one then; This alteration has thrown the Elections upon Multitudes of People, who are apparently excluded by the intention of that Law. Yet to preserve the Majesty of these publick Provisions inviolable, this Act has always been Religiously observed in the literal Construction, though it's manifestly against the meaning of those who made it.

Fourthly, The Government, and consequently the publick Liberties, are best secured by adhering to the utmost extent of the Words of this Act, *i. e.* by perpetual Non-resistance, and therefore if we had nothing else to determine us, we may be well assured, it was the intention of the Legislators to oblige us to the Letter.

In order to the proving this more at large, we are to consider, That the World was never yet so happy, as to be Wise, nor I am afraid Honest in the greatest part of its Numbers. Now as long as the gross Body of Mankind are thus unfortunate in their Understandings and Morals, the Peace of Society would be very indifferently secured, if it might be disturb'd by a Civil War, as often as Weak, or Designing Men should alledge their Grievances would Warrant them in Resistance.

Which

Which will appear further if we consider, That in all Governments though never so unexceptionably managed, there will be always abundance of Male Contents. Some are Distracted because they think they are not sufficiently taken notice of, which makes them endeavour to subvert the present Establishment, in hopes of being better considered in another Revolution. Others are Angry because they are removed from Places of Profit, and Reputation, though possibly they have lost their Post by their own Misbehavior, or at most the Prince shews no more Arbitrariness in this Case, than is allowed every private Man, who has the liberty of changing his Servants at his pleasure. A Third sort happen to have some private Dispute with the *Ministers*, whom because they cannot Displace, they are resolved to revenge their Quarrel upon the King, as if a Man should murther the Master of the Family, or blow up his House, only because he is fallen out with some of the Servants.

This Man has debauch'd away his Fortune, and if he cannot plunder upon another, he is under a necessity of starving his Vice; which makes him lay hold of every Opportunity to embroil the State. In short, some Translate their Allegiance out of Indigence, and some out of Spite. Some Conspiracies are strengthned by Compliance, because a Man won't be so morose, as to be Loyal, when his Friends and Acquaintance are on the other side. Some Engage out of Curiosity to satisfie their restless humor, and that they may try something that is New. And some Revolt to shew their Parts, that the World may see what an admirable Scheme of Rebellion they can contrive, and *how* Powerful they are to Harangue the People out of their Senses and Loyalty. Which is far from being an impossible Task, for the Multitude are as unstable as the Wind, always too inclinable of themselves to Envy, and censure their Governors, which makes them so easily debauched by every Seditious Impostor.

They have not Capacity enough to discover the Designs of these pretended Patriots, nor to foresee the Miseries, which are consequent to Intestine Commotions, nor yet the Compassion and good Nature to make allowances for the necessary Miscarriages of State. They are Naturally unquiet, jealous, and over credulous, which makes them apt to swallow the most extravagant and impossible Relations. Tell them that One Man will attempt the assaulting of Two or Three hundred, though he knows they have as strong Arms, and as little Passive Obedience as himself. Tell them that their Prince intends to Massacre all his Subjects, and to Reign over nothing but Carcases, and Deserts: That he intends to sell them to a

Foreign

Foreign Nation, though he thereby make himself a Slave by the bargain, yet all those Absurdities go down currently with them, when they are confidently reported. Though in reality to suppose that Princes will resign their Authority, and throw away their Crowns, is the most improper, and impracticable Thought, we can possibly fix upon them.

Those who are born and bred to Empire and great expectations, and accustomed to the Charms of Sovereignty and Power, who are remarkable for a Noble and Magnanimous Spirit, for sedateness and freedom from Passion, such Persons don't usually fall into those excesses of Mortification and Bigotry, as to throw away their Kingdoms, either out of Zeal, or Contempt: But the Populace seldom consider these things; Nay, though it's apparent that it's nothing but the Conscientiousness, the Religious Integrety, and great affection the Prince has to promote the happiness of his Subjects, which makes his Conduct unacceptable to them in some Cases; though his mistakes proceed from no worse Cause than misinformation, or some uneven parts of his Virtues; yet they want either the Apprehension or Candour, to make just abatements for so harmless, and generous a Principle: But are as violent in their Censures, and Disobedience, as if he had fetch'd his Design from Hell, and been the most imperious and ill-natured Tyrant in the World.

And since Men are generally such untoward and ungovernable Creatures; Since the *Great Vulgar*, and the *Small*, are lyable to such fatal Miscarriages, and so apt to deceive and pervert each other: Since Ambition and Caprice, and Covetousness have the Ascendant over the Generality, and Shams and Stories are oftner believed than Truth; in such a State of Degeneracy and Weakness as this, the Government must be built upon a very Sandy Foundation, if every one is made a Judge of the Case of Resistance, and all the Fools and Knaves in a Kingdom may Rebel when they please. Such a Scheme of Politicks we may imagine would fill all Places with Tumults, Blood, and Confusion, and in a short time almost Depopulate the World.

But I understand some Persons Object, That Popery and Arbitrary Power were breaking in like a Torrent upon us, that our Lives, and Liberty, and Religion, were just upon the point of being Ravished. And when such important Interests lye at stake, and we are in danger of losing Two Worlds at once, 'tis time to look about us. In such Cases of Extremity singular methods are allowable, For Necessity justifies whatever it forces us upon. All Oaths of Allegience all Provisions against Resistance, though never so peremtory and

strict

ſtrict, are to be underſtood with ſuch Exceptions as theſe: For Laws were made to preſerve, and not to deſtroy us. I ſhall endeavour to give an Anſwer to all the parts of this Objection, excepting what relates to Arbitrary Power, which ſhall be conſidered afterwards. And,

Firſt, As for our Religion which is the main Concern, we could not have loſt that without our own Faults; no Man can rifle our Thoughts, or rob us of our Underſtandings. There is no ſtorming of a Creed, if it's not betray'd by Cowardice, or Treachery, it's Impregnable.

To which I may add, That Adverſity is the beſt Tryal of Mens Sincerity, and gives them Opportunity for the Exerciſe of the nobleſt Vertues. Chriſtianity is far from being endamaged by the Patience and Conſtancy of its Profeſſors. To ſpeak properly, a Church can never flouriſh ſo much, as when we have frequent Inſtances of Fortitude, Reſignation, and Contempt of the World, and all other unqueſtionable Marks of an Heroick and Invincible Honeſty.

Secondly, by our Religion, therefore can only be meant, the free, and unmoleſted Profeſſion of it, which though it's a very deſirable Priviledge, yet we muſt not contend for it in Oppoſition to the Laws of God and our Country. To repel a Perſecution by the aſſiſtance of Perjury and Treaſon, is a moſt unjuſtifiable and fatal Remedy. 'Tis a Cure far above the Malignity of the Diſtemper, and conveys Plague and Poyſon in the Operation; It makes us deſtroy the very Life and Eſſence of that which we are ſo zealous to maintain, and damn our ſelves to ſecure our Religion. The Primitive Chriſtians were perfect Strangers to theſe Salves for Eaſe and Self-Preſervation, and yet their Laws could not be plainer againſt all manner of Reſiſtance than ours.

Beſides, no State can ſubſiſt upon ſuch Reſerves of Interpretation as theſe. For, as has been obſerved already, if Reſiſtance is warrantable in any caſe; then every individual Perſon muſt be made a judge of his Prince's Conduct, and determine what ſort of Provocations, and Opportunities are ſufficient to juſtify a Revolt. Now if ſuch a Liberty was granted, the *Foundations of the Earth would quickly be out of Courſe*: Such loſe Maxims as theſe do no leſs than Proclaim an Indulgence for Anarchy and Licentiouſneſs, and tear up the very Principles of Society by the Roots. For granting the People were generally Honeſt (though this I am afraid is a ſuppoſition, which has much more of Charity than Judgment in it,) yet in regard of diſtance, into experience, credulity, and ſhortneſs of

Thought;

Thought; they are neither fit to pronounce upon the Adminiſtration of their Governors, nor capable of diſtinguiſhing Impoſture from Truth; nor diſcerning enough to foreſee, what Plunderings and Rapes, what Faction and Atheiſm, what extenſive Ruin and Deſolation are the inevitable conſequences of a Civil War. Now what can we expect but frequent returns of ſuch a Scene of Miſery, if every Man may hang out the Flag of Defiance againſt his Prince, whenever his Weakneſs or his Wickedneſs ſhall promt him to it. When the Subtle and Ambitious can practiſe without controul upon the unſtable, and unthinking Multitude, and play their Spleen and their Rhetorick againſt the Government. When Men of Turbulent and Tempeſtuous Spirits, who love to live in a Storm, that they may gratify their Malice with the Wreck and their Avarice with the Booty. When ſuch Men are allowed to blow up the Simple, and over-credulous into Jealouſie and Diſcontent; and all the Seditious Incendiaries may throw their Flambeaus, and their Wild-fire about a Nation. When ſuch dangerous Freedoms as theſe (which yet are no more than the Natural conſequencces of the Doctrine of Reſiſtance) are given; and varniſhed over with the ſpecious Titles of *The Laws of Nature and Self-Preſervation:* We may then eaſily imagine that Juſtice and Peace would ſoon take their leaves of this World, and Mankind would need no other Judgment, but the Effects of their own Vice and Folly to deſtroy them. But,

Thirdly, Suppoſing extremity of rigour in Governours would abſolve us from our Allegiance (which we ſee it will not;) yet this was none of our Caſe.

Indeed if we were to form an Idea of his Majeſties Government, by the Tragycal Harangues of ſome Men, we could not imagine any thing leſs than the Ten Perſecutions had been amongſt us; and that a great part of the Nation had been Maſſacred; and yet, God be thanked, we lived in great Proſperity, free from the Exactions, and Tributary Burthens of other Reigns, and if nothing but his Majeſties Severity could have taken us off, we might, for ought appears, have been all Immortal.

Well, ſay they, Though we were not actually ſwallowed up, yet we were upon the brink of Deſtruction; and if our *Deliverers* had not timely Interpoſed, the King's Dragoons were juſt going to make their Fire upon the Bible, and the Statute Book; and we muſt either have been converted to Popery, or Aſhes. But,

Firſt, I would gladly know of theſe Men, why they always twiſt Popery and Slavery together. For this I can imagine no other reaſon, except it be to make their Monſter more frightful to the

People. For it's certain there is no ſuch inſeparable Connexion between theſe Two things, as is pretended. For had our Fore-Fathers nothing which they could call their own till the Reformation?

Is not *Magna Charta* a Popiſh Law? And are there not many liberal Conceſſions from the Crown before *Edward* the Sixth? And as their Argument has notoriouſly failed for the time paſt, ſo I hope it will never be tryed for the future.

Secondly, This ſuppoſal of Severity has as little reaſon, as Duty and Decency in it. The Clemency and Goodneſs of his Majeſty's Temper (which Character his Enemies are ſo Juſt to allow him.) The generous Protection, and Aſſiſtance he gave the *Hugonots*; his Employing the Proteſtants in his Court and Camp, and Truſting them with the moſt important Places and Secrets, thoſe are mighty Evidences that nothing of this horrid Nature was intended.

Beſides what Force was there to perform this extraordinary Exploit? I ſuppoſe few People are ſo far over-grown with the Spleen, as to fancy the Proteſtants would have helped to deſtroy one another. Now before the certainty of the Invaſion, I believe I may ſafely ſay, there was not above 10000 Papiſts in Arms in the Three Kingdoms, and probably not much more than the Tenth part of thoſe in *England*. Oh, but the Iriſh came over! Not above a Regiment or Two till the Dutch were ready to make a Deſcent upon us; and when they were moſt numerous, the Engliſh Roman Catholicks, and themſelves ſcarcely held the Propotion of One to Two hundred Proteſtants: And, I believe, they did not perceive we were ſo charmed with the Spirit of Loyalty, or Religion, as to let them cut our Throats without Oppoſition: For we Proteſtants, at that time, gave broad Signs, that though our Principles were *Paſſive*, yet our Hands upon a provocation would be as *Active* as our Neighbours. Therefore as to thoſe Iriſh who were laſt ſent over, the Kingdom was then threatned with ſuch a powerful Enemy, and the neceſſity of Affairs was ſuch, that there needs no manner of Apology for their coming; and as for the others who were Tranſported before, their Numbers were very inconſiderable; and though we did not foreſee the Dutch Storm, it's likely his Majeſty did.

This is certain the preparations in *Holland* were viſible long before their Deſign was owned, and therefore his Majeſty had reaſon to be upon his Guard. Beſides at that time the Engliſh were under apparent Diſcontents, for then the Miſtery of Iniquity began to work, and thoſe Helliſh Stories, which drove his Majeſty out of his Dominions, were reported with great confidence; and a Man was not counted

counted a good Proteſtant, who would not believe them. How well they have been proved ſince the World knows.

And here I cannot omit taking notice what a Frantick, and Ruinous Maxim it is to aſſert, That it's Lawful for the People to ſet their Kings aſide upon a bare jealouſie, and apprehenſion of Rigour. Give them but this Liberty, and an Impoſtor will eaſily fright them into a State of Nature, and carry them whether he pleaſes. If we may renounce the Government as often as any bold Pretence is made againſt it, and tranſlate our Allegiance upon conjecture and report, the conteſts about Dominion would be ſo frequent and terrible, yet we had better Disband iuto Solitude, than live any longer together: If Calumnies and Aſperſions (and all undemonſtrated Reports ought to go for no more) are ſufficient to cancel our Obedience, then no Prince can have any Title as long as there is either Knavery, or Folly in the World. This Principle lays a Foundation for a Rebellion every Week, and renders all Government impracticable. By acting in this manner we put it in the Power of Slander and Perjury to determine the weightieſt points of Juſtice; and make it an eaſie Task to over-turn a Kingdom with a Lye.

If it be urged that it is needleſs to ſearch after farther proof that the Subverſion of Proteſtancy was intended, becauſe a Prince of his Majeſties Perſwaſion and Zeal muſt neceſſarily think himſelf obliged to purſue a deſign of this Nature.

Before I return an Anſwer, I ſhall juſt Obſerve that Religious Zeal, though it acts upon miſinformation is really a commendable Quality: For it's an Infallible ſign of a good Intention, it argues great Charity to the Souls of Men, and a generous deſire to propagate Truth, and to promote the Glory of God. To ſpeak freely, I cannot be heartily angry with a Man (though his Methods of Diſcipline are never ſo unacceptable) who, I am perſwaded, has no other Deſign than to carry me to Heaven; though I had much rather he would permit me to go thither my own way, becauſe it's almoſt impoſſible I ſhould go any other. For Rigour is uſually very unfortunate both to the Proſelyter, and Proſelyted; It creates Prejudice and Averſion to the one, and makes no more than a Hypocrite of the other.

But to proceed to the Objection, in order to the confuting of which, I ſhall endeavour to prove theſe Two things.

Firſt, That his Majeſty is not obliged by the Principles of his Church to attempt the Converting his Subjects by Severity.

Secondly, That in all humane probability ſuch a Method would prove Unſucceſsful.

Firſt, That his Majeſty is not obliged by the Principles of his Church to attempt the Converting his Subjects by Severity. The Doctrine of the Church of *Rome*, I conceive, is to be collected theſe Four ways, Either from her eminent Divines, The Bulls of Popes, The Decrees of Councils, or the uſual Practice; which when a Caſe is doubtful, ought to be taken for the Senſe of a Communion.

To begin with their Divines; *Caſſander*, a Perſon of great Learning and Judgment, and whoſe Writings were never cenſured, inſiſts upon gentle Methods for the propagation of Religion, diſapproves of Severity, and tells us it has been a miſerable occaſion of the ſpreading of Schiſme, (*De Offic. Pii Viri*, pag. 187. 196.)

But becauſe it may be objected this Author was more gentle in his Cenſure, and allowed a greater Latitude than the generallity of Communion; I ſhall ſubjoyn the Teſtimonies of others of a ſtraiter Principle; and who are well known to carry up Popery to the height.

1. *Thomas Aquinas* yields 22 *æ. q.* 10. *Art.* 11. *c. That Unlawful Worſhip*, Ritus Infidelium (under which Words he comprehends an Heretical Religion, as appears both from this *Concluſion*, and from his next *Queſtion*, 22 *æ. q.* 11. 1.) *May be tolerated in ſome caſes.* Which he proves,

1. *Becauſe the Church ought to take her Meaſures of Government from the Adminiſtrations of Providence. Now God permits many ill Practiſes in the World, leaſt a forcible Reſtraint ſhould prevent a greater Good, or prove the occaſion of a greater Evil. Therefore Infidels and Hereticks have been ſometimes tolerated by the Church, when their Numbers were great, and Diſcipline could not take place without the hazard of giving great Offence; without occaſioning a Commotion (or civil Diſturbance) and hindring the Salvation of thoſe who by fair means might by degrees be won over to the Catholick Faith.* Theſe Arguments for Toleration are much ſtronger *now*, than they were either in *Aquinas* his Time, or before it: And therefore if he had lived ſince the Reformation, we have reaſon to believe he would have preſſed them more at large.

Which probably is the reaſon why Cardinal *Lugo*, who wrote ſince the Counſel of *Trent*, is more full and particular in the point. For though he won't allow a Toleration but upon a very *great Occaſion*, yet in ſuch a caſe he acknowledges, *That a Catholick Prince may give Liberty of Conſcience to his Heretical Subjects.* For this Opinion he quotes *Acquinas*, and ſays he, *Was followed by the reſt of the Di-*

vines,

vines, particularly naming *Suarez*, *Covinch* and *Hurtado*. He adds, *That this Practice has been uſed by many of the moſt Pious Chriſtian Princes, who Tolerated open Hereſie when they could not oppoſe it without the danger of a greater Inconvenience.* For this *Urgent Occaſion* (*cauſa graviſſima*) is then ſuppoſed to happen (as he proves from *Hurtado*,) *When Religion is likely to be more damnified by the denial than by the grant of ſuch an Indulgence, when the People are in danger of growing Mutinous and Diſorderly by ſtrict Uſage. And therefore in an Heretical Country ſuch a Liberty of Conſcience may be granted without any difficulty: And in a Catholick one too when things are deſperate.* He proceeds farther, and tells us, *That ſuch an Allowance to Hereticks is a thing Lawful in its ſelf; and therefore when a Prince has paſſed his promiſe, he ought punctually to keep it.* Lugo. de Virt. div. Fid. Diſp. 19. Sect. 4. Numb. 121. 123. 128. 130.

We ſee therefore, That in the Opinion of theſe Schoolmen (though none of the kindeſt) we are not to be roughly managed till the Major part of us are gained by dint of Argument, which is ſo improbable a ſuppoſition in *England*, that I think we need not trouble our ſelves about the Conſequences of it.

It's true *Bellarmine* (*de Laicis Lib.* 3. *Cap.* 18.) pretends to prove by Scripture, the Fathers, and Reaſon, That Kings ought not to permit a Liberty of belief, but then he ſuppoſes their Authority to be Abſolute; as appears from his Inſtances of the Jewiſh Kings, and Roman Emperors. Therefore his Doctrine does not oblige Princes, who have only a Part (though a Principal one) in the Legiſlative Power, eſpecially when a different Communion is Eſtabliſhed by the Laws of the Realm, which cannot be Repealed but by conſent of Parliament. A King when he exceeds his Prerorogative, is in ſome meaſure out of the Sphere of Royalty: For though his Subjects are not to reſiſt him, when he Perſecutes againſt Law, yet his Actions, having no Warrant from the Conſtitution, are altogether Private and Unjuſtifybale.

Secondly, and Thirdly, The Application of this Remark will give the Decrees of Popes and Counſels, relating to this matter, a fair Interpretation: For neither the Bulls of *Paul* the Fourth, nor *Pius* the Fifth, againſt Hereticks, nor the *Bulla Cœnæ* of *Urban* the Eighth, nor the Third Canon of the great Counſel of *Lateran*, in which places, if any where, we have reaſon to expect this Severity of Doctrine, I ſay it's neither openly aſſerted, nor can it be collected from any of theſe Authorities, That a limitted Prince is obliged to break through the Eſtabliſhment of his Country, and Act Arbitrarily for the ſake of Religion; or (which is all one) that a private Man ought to propagate the Orthodox Faith *Vi & Armis*,

Arms, though he violates the Laws of Civil Juſtice, as well as Humanity by ſo doing.

Fourthly, If the Point was dubious, the Practice of the Roman Church ought to determine the Controverſie. Now matter of Fact carries it clearly for the favourable Side. To begin with *France*; It is certain that from the time of *Henry* the Fourth till within theſe few Years, the Hugonots have had little or no diſturbance about their Religion, notwithſtanding the Abſoluteneſs of that Monarchy, and the vaſt Majority of Roman Catholicks amongſt them, and yet this Indulgence of their Kings has never been condemn'd as a prevarication of their Duty. To proceed, In the *Cantons* of *Switzerland* the Proteſtants at this Day enjoy their Perſwaſion with Eaſe and Security enough (Dr. *Burnet*'s Travels.)

The ſame Liberty is allowed the Reformed in *Germany* by ſeveral Princes of the *Roman* Communion; *viz.* by the Duke of *Newburgh*, the Biſhop of *Mentz*, the Prince of *Salzback*, and the Biſhop of *Hilderſhem*, *&c.*

And having ſhew'd that his Majeſty is not obliged either by the Doctrine, or Practice of his Church to puſh things to extremity; I ſhall prove in the

Second place, That in all Humane probability ſuch a Method muſt prove Unſucceſsful, and conſequently the uſe of it is apparently againſt his Majeſty's Intereſt.

He that conſiders the preſent Circumſtances we are in, and takes a full view of the State and Complexion of our Affairs, muſt conclude it a Romantick Enterprize to endeavour the Eſtabliſhing the Romiſh Faith in this Kingdom.

This Religion is not only againſt the Conſcience, but the Grain of the Engliſh Nation. Many things they are firmly perſwaded are Erroneous and Unaccountable, and others they can very hardly reconcile their Temper to, though they thought them True.

In ſhort, there can be no danger that Popery ſhould become the Religion of the Kingdom, ſince the Abby Lands are poſſeſſed by the Layety, and moſt of the Clergy, by having Families, are engaged in the ſame Intereſt: Beſides ſome believe the Church of *Rome* too Indulgent, and ſome too ſtrict a Mother. For we have enough among us who will neither ſtoop to the ſubmiſſions of Confeſſion, nor bear the over-grown Grandeur of that Church: So that if they had no other Arguments (as they have the beſt imaginable) their Spirit would ſecure their Proteſtancy.

Now

Now when a People have ſuch ſtrong Convictions to keep them where they are, and ſuch an Unconquerable Averſion to the Roman Communion. When Arguments and Inclination lies the ſame way. When there is Senſe and Reaſon, Scripture and Antiquity, Numbers, Humor and Intereſt, (all the Motives that Heaven and Earth can ſuggeſt) againſt a Religion, there is little likelihood of its prevailing.

Beſides, the circumſtance of time would be no ſmall Obſtacle to a Deſign of this Nature. For the Controverſie between us has not only been lately handled at large, and drawn down to every vulgar Capacity; but the Victory has fallen indiſputably, and entirely on the Church of *England's* Side. And though the Roman Catholicks may think otherwiſe, yet as long as the Proteſtants are of this Opinion, the Effect will be the ſame. Inſomuch that if we had another Advantage, the freſh Senſe of Succeſs and Triumph would almoſt make us Impregnable. And when things ſtand in this Poſture, as every one that has but half an Eye muſt now ſee they doe. How well ſoever a Man may be aſſured of the Truth of his Religion, he is no more bound to drive againſt all theſe Difficulties and Oppoſitions, than he is to ſtand in a Sea Breach. Thoſe Spiritual Directors are fit for *Bedlam*, who will run Princes upon ſuch dangerous Impoſſibilities, where there is ſo much hazard without the leaſt glimpſe of Succeſs.

Since therefore his Majeſtys Communion does not force him upon ſuch rigorous and impracticable Deſigns, as his Enemies would make us believe; ſince he has neither Duty to oblige, nor Hopes to ſucceed, nor (for ought appears) Inclination to execute. It ſeems Unreaſonable as well as Uncharitable, to ſuppoſe he will diſquiet his Age, and diſguſt his Subjects, and hazard his Kingdoms any more about Diſputes of this Nature.

Can we imagine any Prince will venture upon an Expedient, which is demonſtratively Feeble and Inſufficient, and which to ſpeak ſoftly, has proved ſo Unfortunate upon the bare preſumption of a Tryal? Will he ſtand a Courſe, where he knows there are nothing but Rocks and Shallows, without any proſpect of Advantage by the Voyage?

No; Self-Preſervation and Common-Inſtinct will keep a Man from ſuch Attemps as theſe.

But to return more directly to our Author (though, I hope, this has been no unſeaſonable Digreſſion.)

Having ſhewn therefore what an inſecure diſtracted Condition a State muſt be in, if Subjects were permitted to take up Arms, as often

often as they were abuſed, or ill diſpoſed: I ſhall proceed to ſhew how much ſafer their Liberties are under the Protection of that Unreputable, as well as Unpractis'd Vertue of *Paſſive Obedience*.

And here (as has been already hinted) We have the Honour, and Conſcience, and Intereſt of Princes to ſecure us; and how defective ſoever the Two former Principles may be, the latter muſt certainly take a firm and univerſal hold of Mankind.

Few People in their Senſes will purſue thoſe Methods, in which the hazard is ſo apparently over-proportioned to the probability of Succeſs. Now every one knows that Rigour and Oppreſſion is apt to make the Subjects run Riot, though they are under never ſuch ſtrict Obligations to ſubmiſſion. And therefore Princes who have more to loſe than others, will be more cautious of giving a colourable Provocation: Beſides when they find their Subjects under peaceable Principles, and aknowledging Themſelves bound never to diſturb their Governours upon any Pretence whatever. This will make them have the leſs Temptation to Oppreſs them. This will encourage them to enlarge the Freedom of their People, when they are ſo well aſſured their Favours will not be abuſed. But when Maxims of Reſiſtance are ſtrow'd, and the whole Multitude Authoriſed to determine when this extraordinary Priviledge is to be uſed, which muſt be allowed, otherwiſe its perfectly inſignificant; for I ſuppoſe the Prince will ſcarcely tell them when they are to Rebel. When ſuch ſingular Poſitions as theſe are Advanc'd, Governours muſt needs be alarmed, and uneaſie, and take the firſt opportunity to cruſh their Subjects, and diſarm them of that dangerous Power which is ſo likely to be turned againſt themſelves; which Deſign if not actually compaſſed, would be often attempted; and conſequently the People muſt be either Enſlaved, or Embroyled. Theſe are the natural Effects of ſuch Licentious Tenets; they either prove the Inlets of Arbitrary Power, or elſe keep us in perpetual Commotions, and deprive us of all the Advantages of Society.

Farther, though the Supream Magiſtarte is unaccountable, yet his Miniſters are not. Thoſe who Execute his Illegal Commands may be puniſhed for their Complyance. And if the preſent Authority ſhould protect them from Tryal, and ſtop the Courſe of Juſtice. They have the uncertainty of their Princes Humour, the Fears of his underſtanding their falſe Conduct, but eſpecially the Vengeance of another Revolution to keep them in awe. Now the Conjuction of all theſe Arguments for *Paſſive Obedience*, are found both in Reaſon and upon Experiment, to be a much better Fence for the Property of the Subject than to authorize Reſiſtance upon any account

court whatever. For this cannot be done without making every individual Perſon a proper Interpreter of ſo dangerous a Law; and giving the People leave to diſcharge themſelves of their Allegiance whenever they pleaſe. Now to give Pride, and Poverty, and Revenge, a general Liberty to diſturb the publick Peace, to allow the Subjects to fire upon the Crown, as often as they are either ambitiouſly enclined, or unreaſonably frighted and impoſed upon; as in effect to let looſe the Principles of ruin upon a Nation; and to arm all the wild and ungovernable Paſſions of Mankind to its own deſtruction.

And ſince Non-reſiſtance has ſo many Advantages above the contrary Tenent, we ought to interpret the Law I have been ſpeaking of to this Senſe; ſince not only the plain Words, but the Common-Intereſt and Safety, require ſuch an Interpretation: For the Deſign of all Laws being to provide for the general convenience, they are by no means to be ſet aſide, though the keeping of them ſhould prove uneaſie to ſome particular Times and Perſons. There is no abſolute Security in this World, and therefore we ought to ſtick to thoſe Meaſures which afford us the beſt; eſpecially when they are legally Eſtabliſhed, ſo that we have no liberty to change them though they were leſs commodious. And though the Doctrine of Non-reſiſtance may ſometimes preſs hard upon the Subject, yet this very rarely happens, for generally ſpeaking the moſt Arbitrary Rigors of the Prince are more tollerable than the Miſeries of Diſobedience, and Civil Diſtractions.

I ſhall give a very gentle Inſtance; *viz.* The late Expedition of the Mobile, who beſides the Terror and Barbarity of their Irruption, have in a few Days violated more Property than probably has ſuffered by the ſtretch of the Prerogative in an Hundred Years.

Therefore ſince unconditional Submiſſion is the beſt Expedient to prevent perpetual Broyls and Inſurrections, and the only ſolid Foundation to fix the Government upon; we ought in Duty to God, and our Country to adhere unalterably to this Doctrine. And if we happen to fall upon a leſs fortunate Age, we muſt take our chance contentedly, and reſt the event with Providence, and not fly of from thoſe Principles which carry ſo vaſt an odds of Advantage in them; by the Practice of which our Fore-Fathers have been, and our Poſterity is likely to be happy.

And now having ſhewn the unſoundneſs of his main Principle, a little trouble will Anſwer the reſt of his Arguments.

Firſt, He tells us, *That all general Words are ſuppoſed to have a tacit reſerve in them, where the matter ſeems to require it.*

To this I Answer, That in this Case the matter does not seem to require any reserve, because such an Exception would frustrate the Intent of the Law, and undermine Government.

As for his Instances in *Children and Wives*, they come very much short of his Point: For though Children (notwithstanding the general Words in Scripture) are not to do every thing their Parents may command them, yet certainly they are not to enter into Confederacies against them, to Fight them, and turn them out of their Houses upon any provocation whatever; and therefore much less is the Father of their Country to be used in that manner.

His Instance in *Marriage* is as unlucky as the former. Where the *Parties swear unconditionally to cohabit together till Death*, and yet as he observes, it's not doubted but that *Adultery disengages them from their Contract*. But the reason why the universality of the Terms are limitted in this Case is, because we have an express Determination of our Saviour to Warrant it (*Matt.* 19. 9.) Let him produce any such Authority for Resistance, either from Gospel, or Law, and we will yield the Point.

In return to his saying, *Odious Things are not to be suspected, and therefore not to be named.*

I desire to know of him what is more Odious than Knavery, yet all Securities in Law are plain suspicions of such Scandalous dealing, and make express provisions against it, though the Quality of the Persons contracting are never so unequal.

So that if there had been any such Contract between our Kings and People, as some Men fancy, the *Terms of Forfeiture* would no doubt have been as plainly express'd, as they are in private Concerns. And that this is more than a conjecture, is evident from Practice of *Flanders* and *Poland*, where such express Allowances of Resistance have been actually made, (how Politickly I shall not determine) as appears from *Meierus*, and *Chytræus*, as they are cited by *Grotius*, (*de Jure Belli, &c. Annot. ad Cap.* 4. *Lib.* 1. *Sect.* 14.)

Nay himself vindicates the Dutch from the charge of Rebellion against *Philip* the Second upon this Ground, *viz. Because it's confest by Historians on all sides that there was an express Proviso in the Constitution of their Government; that if their Prince broke such and such Limits, they were no more bound to obey him, but might resist him, which Original Contract was notoriously broken by the Duke of* Alva *their Governour*. Reflections upon Parliam. Pacif. p. 6.

I shall give another Instance out of *Thuanus* to this purpose, relating to *Hungary*. This Historian (*Lib.* 133.) informs us, that the Protestant Nobility of that Kingdom, wrote to the States of *Bohemia*,

mia, *Sieſila*, and *Moravia*; in which Letters they Complained very much of the hard Uſage They had received from the Emperors Miniſters, *&c.* And after a recital of their Grievances, (which were of the moſt provoking Nature imaginable) They add, that amongſt their other Priviledges, (which ought to be Confirm'd in every Convention) they have this remarkable one, Granted in the Reign of King *Andrew* the Second, *An. Dom.* 1222. the Tenour of which is as follows, *viz. That if his Majeſty, or any of his Succeſſors ſhould happen at any time hereafter to Act contrary to thoſe Proviſions, by which the Privileges and Liberties of the Kingdom were Eſtabliſhed, that from thenceforth it ſhould be for ever Lawfull for the Subjects without the leaſt Blemiſh of Diſloyalty to Reſiſt and Oppoſe their Prince.*

This was a Decree to puroſe, by vertue of which (as *Thuanus* obſerves) the Proteſtant *Hungarians* Juſtified their Arms againſt their King: And we may take notice in Contradiction to what our Author Affirms; That ſuch *Odious Things*, and their Remedies too, where they are allowed, are particularly *Named*, and Provided for. Therefore we may fairly Conclude, that where none of this plain Dealing is to be ſeen, the Conſtitution does not admit of any ſuch ſingular Reſervations.

Indeed to talk of a Character for Reſiſtance in a Country which has been Conquered ſo often, and all along Monarchically Governed, ſeems to be a Romantick Suppoſition. For can we imagine that when our Kings had fought themſelves into Victory and Power, and forc'd a Nation to ſwear Homage and Submiſſion to them, that they ſhould be ſo eaſie as to Article away their Dominions, make their Government Precarious, and give their Subjects leave to Diſpoſeſs them, as often as they ſhould be pleaſed to ſay they had broken their Agreement: But the Silence of our Laws and Hiſtory as to any ſuch *Compact*, is a ſufficient diſproof of it; For if there had been any ſuch Enfranchiſing Inſtrument, how prejudicial ſoever it might have been in its Conſequence. yet the natural deſire of Liberty would have occaſioned the preſerving it with all imaginable Vigilance: And as it would not have miſcarried through Negligence, ſo if Violence had wreſted ſuch a pretended Palladium from us, the Calamity would have got into the Almanack before this time, and been as certainly Recorded as the Deſtruction of *Troy*.

Since therefore we have no Evidence either for the Poſſeſſion, or ſo much as for the Loſs of this ſuppoſed Privilege, we may certainly conclude we never had it, or at leaſt muſt grant that no claim can be grounded upon ſuch an Improbable conjecture, for *Idem eſt non Eſſe & non Apparere.*

Secondly, Our Author urges, *That when there seems to be a Contradiction between Two Articles in the Constitution, the Interpretation ought to be given in favour of that Article, which is most evident and important.* From whence he proceeds to assert, *That there is a seeming Contradiction between the provisions for the publick Liberty, and the renouncing all Resistance.*

And therefore the Constitution ought to be expounded in behalf of the former, as being most advantageous to Government: Now one who had never read the Statute Book, would imagine by this Authors Argument, that we had some Laws for the taking up Arms against the King, as well as others which forbid it, and both equally plain, than which nothing is more false. And upon supposition there was any such Clash in our Acts of Parliament, the Law for Non-resistance being last Enacted must necessarily take place, and Repeal whatever was before Established to the contrary. But,

Secondly, I Answer, That I have already proved that the Rigths of the Subject are best secured by Non-resistance, and therefore they are no ways inconsistent, or contradictory, to each other. So that our Liberties had much better lye at the Discretion of Kings, who have much greater Motives than others to do Justice, and give general Satisfaction, than to depend upon the Management and Mercy of the People, and be liable to such Fatal Convulsions which must happen as often as Discontent, and Ambition can impose upon the Weakness and Inconstancy of the Multitude.

Thirdly, His Third Argument is the same with his Second, which he has given us in different Words, That what we want in Weight, may be made up in Number. It begins somewhat Remarkably, *Since it is by Law that Resistance is condemned, we ought not to understand it in such a Sense, as that it does destroy all other Laws.*

First, Now one would have thought that the condemning Resistance, or any other Action by *a Law,* had been the only way of doing it to any purpose. But this Author seems to draw a consequence of Abatement upon this Doctrine from its Authority, as if it was to be less observed because it is Established by Law. But,

Secondly, To give him rather more advantage than the Construction of his Period will allow. I Answer, That I have already made it appear, that to wrest the Laws from their plainest and most obvious Sense, is to make them perfectly Useless; and that Non-

resistance

resistance is the best Expedient to preserve the Laws and every thing else that is valuable: And therefore though *its plain that the Law did not design to lodge the wole Legislative Power in the King*; yet as its plain that it intended to forbid Resistance in case he *should set about it*: For the Law-makers declare in in as full Intelligible Words, as can be conceived, that *the Militia, the Posse Regni, was always the undoubted Right of his Majesty and his Predecessors, and that its Unlawful to take up Arms against him upon any Pretence whatever.* Now if its possible for a Law to make, or declare a Monarch Irresistible, which I suppose no man will deny; I desire to know whether it can be drawn up in more significant, and demonstrative Terms, than this Act before us? If it cannot, then our Author has no imaginable reason to dispute this Part of the King's Prerogative. As for his Instance, *That the Legislative Power is Invaded, and the Constitution of Parliaments Dissolved.* This Charge is Aggravated beyond all Decency and matter of Fact: For its well known, that the King did not pretend to make his Proclamations Equivalent to an Act of Parliament; and what his Majesty acted by way of Dispensation, was not only directed by the present Judges, but grounded upon a solemn Resolution of all the Twelve in *Hen. 7th.* Reign, in a Case seemingly Parralell, which Sentence has been followed by eminent Lawyers since, and never Reversed by Act of Parliament.

As to the *Regulation of Corporations*, That was a Method begun by *Charles* the Second, a Protestant Prince, and Applauded by all the Loyal Party of the Nation: Besides the Burroughs were not so prodigiously altered, but that we might have had a good Protestant Parliament out of them, as appears from the Elections made upon the Writs Issued out in *August* last, where those who were against Repealing the Penal Laws and Tests, carried it with great odds against the other Party: And since we know his Majesty has returned the Charters to the *State* of 79.

And here it may not be improper to observe, That Prerogative has been as Remarkably misunderstood at Court in former Ages; of which several Instances might be given, but I shall confine my self to the Reign of one, who on all Hands is accounted a most Excellent Prince: I mean King *Charles* the First.

Now the Lords and Commons in their Petition to the King complain, *That his Majesties Subjects had been charged with Aids, Loans, and Benevolences contrary to Law, and Imprisoned, Confined, and*

sundry

sundry ways molested for non Payment. That the Subjects had been detained in Prison without certifying the Cause, contrary to Law. That they had been compelled to quarter Soldiers and Marriners contrary to Law. That notwithstanding several Statutes to the contrary, divers Commissions had been Issued out under the great Seal of England *to try Soldiers and Marriners by Martial Law* (Quarto Car. 1. Rushworth's Coll.)

To this I might add the Levying *Ship Money, Coat and Conduct Money*, &c. but I am not willing to enlarge upon so unacceptable a Subject, nor to discover the Misfortunes of the Father any further than Justice and Duty to the Son obliges me; I say the Misfortunes, which we see the best Princes through misinformation, or improper advice may sometimes fall into: However I must crave leave to take notice, that these were other manner of Grievances than the Dispencing with Penal Laws, both in respect of the Evidence and Consequences of them; and, yet I am sure, the War which was made by the Subjects upon this Score, is by our Laws declared an Horrid and Notorious Rebellion.

This I mention not to justifie the Conduct of the *Ministers*, but to shew that under these Circumstances a mistake in his Majesty ought rather to be lamented than exposed, and Magnified at such an enflaming Hyperbolical rate. And to this modesty of Behaviour we are now more especially obliged, since his Majesty has promised to *Redress past Errors*, * which is a plain Argument that some of his former Measures are unacceptable to himself, as well as to his Subjects, and that he will not pursue them for the future.

* *Letter to the Convent.*

Fourthly, Our Author proceeds to argue, *That the Law mentioning the King, or those Commissionated by him, shews plainly that it designed only to secure him in the Executive Power, for the Word Commission necessarily imports this: Since if it is not according to Law it's no Commission.* From whence, I suppose, he infers that those who have it may be resisted. Now that this Inference is wide of the Mark appears,

First, Because when this Law was made, the King was not restrained from Commissionating any Person whatever in the Field, and therefore the Legislators could have no such Design in their View as the Enquirer supposes.

Secondly, The Test Act which was made several Years after the former, though it bars the King from granting Military Commands to those who refused to give the prescribed Satisfaction, that they were no Papists; yet this Statute only declares their Commissions void, and subjects them to some other Penalty; but

it

it does by no means Authoriſe the People to riſe up in Arms and ſuppreſs them, and therefore by undeniable Conſequence it leaves the other Law of Non-reſiſtance in full force.

Thirdly, This Law which declares it Unlawful to take up Arms againſt thoſe who are Commiſſionated by the King, was deſigned (as may reaſonably be collected from the Time) to combat that pernicious diſtinction between the King's *Perſon* and his *Authority*, which has been always too prevalent; though in reality it's nothing but the King's Authority which makes his Perſon Sacred, and therefore the ſame inviolable Priviledge ought to extend to all thoſe who Act under him: Yet notwithſtanding this, it has often happened that thoſe who pretend a great Reverence for his Perſon, make no ſcruple to ſeize his Forts, fight his Armies, and deſtroy thoſe who adhere to him, under the pretence of taking him out of the Hands of Evil Counſelors, which has been the moſt uſual, and plauſible Colour of ſubverting the Government. This Act therefore which was made ſoon after the Reſtauration, we may fairly conclude, was particularly levelled againſt this dangerous Maxim, which had ſo Fatal an Influence upon the late Diſtractions.

Fourthly and Laſtly, The Enquirer urges, *That the King imports a Prince clothed by Law with the Regal Prerogative, but if he goes about to ſubvert the whole Foundation of the Government, he ſubverts that by which he has his Power, and by Conſequence he Annuls his own Power*, &c.

Firſt, To this it may be Reply'd, That bare endeavouring to do an Action, though the ſigns of Executing may be pretty broad, is not doing it in the Conſtruction of humane Laws, *E. G.* Drawing a Sword upon a Man is not Murther. The intention of the Mind is often impoſſible to be known; for when we imagine a Man is going to do one thing, he may be going to do another, for ought we can tell to the contrary; or, at leaſt, he may intend to ſtop far ſhort of the Injury we are afraid of. And ſuppoſing we had an Authority to puniſh him, there is no reaſon that conjecture, and meer preſumption ſhould make him forfeit a Right, which is grounded upon clear and unqueſtionable Law. But,

Secondly, If with reference to the preſent Caſe, our Author means that the Government is actually ſubverted, as he ſeems plainly to affirm pag. 7. Then I grant the *King's Authority is deſtroy'd*, and ſo is the *Property of the Subject too*. For if the Government is diſſolv'd, no Man has any Right to Title or Eſtate, becauſe the Laws upon which their Right is founded, are no longer in Being. But if the Government be ſo lucky as not to be diſſolv'd,

then

then the King's Authority remains entire by his own Argument, because it's supported by the same Constitution which secures the Property of the Subject.

In his Sixteenth Paragraph we have a mighty Stress lay'd upon the difference between *Male Administration and striking at Fundamentals*, as if it was Lawful to resist the Prince in the latter Case, though not in the former. But if this Distinction had been own'd by our Constitution, we may be assured we should have had a plain List of *Fundamentals* set down in the Body of our Laws, particularly we have all imaginable reason to believe that these *Fundamentals* would have been mentioned, and saved by express Clauses and Provisoes in those Statutes which forbid Resistance. For without such a direction it would be impossible for the Subject to know how far his Submission was to extend, and when it was Lawful to make use of Force. Such an unregulated Liberty would put it into the Power of all popular, and aspiring Male Contents to corrupt the Loyalty of the unwary Multitude, as often as they thought fit to cry out *Breach of Fundamentals*. And at this rate it is easy to foresee what a tottering and unsettled condition the State must be in. And therefore according to the old Maxim, (for which there was never more occasion) *Ubi Lex non Distinguit, non est Distinguendum.*

I have now gon through his Principles, and I think sufficiently shewn the Weakness, and Danger of them. And if so, his Catalogue of Grievances signify nothing to his purpose, though there was much more aggravation, and Truth in them than there is.

But time has now Expounded the great Mystery, and made it evident to most Mens Understandings that our Authors Party has fail'd Remarkably in Matters of *Fact*, as well as in Point of *Right*. For they have not so much as attempted to make good the main and most invidious Part of the charge against his Majesty; though (to omit Justice) Honour and Interest has so loudly called upon them to do it. Their giving no Proof after such Importunity of their own Affairs, is a Demonstration they never had any: For how defective soever they may be in other Respects; we must be so just as to allow them Common Sence.

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THE END.